



Sen. John J. Cullerton

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09500SB0100sam003

LRB095 03581 RCE 36639 a

1 AMENDMENT TO SENATE BILL 100

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 100, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Unified Code of Corrections is amended by  
6 adding Article 4.5 to Chapter V as follows:

7 (730 ILCS 5/Ch. V. Art. 4.5 heading new)

8 ARTICLE 4.5. GENERAL SENTENCING PROVISIONS

9 (730 ILCS 5/5-4.5-5 new)

10 Sec. 5-4.5-5. STANDARD SENTENCING. Except as specifically  
11 provided elsewhere, this Article governs sentencing for  
12 offenses.

13 (730 ILCS 5/5-4.5-10 new)

14 Sec. 5-4.5-10. OFFENSE CLASSIFICATIONS.

1       (a) FELONY CLASSIFICATIONS. Felonies are classified, for  
2 the purpose of sentencing, as follows:

3           (1) First degree murder (as a separate class of  
4 felony).

5           (2) Class X felonies.

6           (3) Class 1 felonies.

7           (4) Class 2 felonies.

8           (5) Class 3 felonies.

9           (6) Class 4 felonies.

10       (b) MISDEMEANOR CLASSIFICATIONS. Misdemeanors are  
11 classified, for the purpose of sentencing, as follows:

12           (1) Class A misdemeanors.

13           (2) Class B misdemeanors.

14           (3) Class C misdemeanors.

15       (c) PETTY AND BUSINESS OFFENSES. Petty offenses and  
16 business offenses are not classified.

17       (730 ILCS 5/5-4.5-15 new)

18       Sec. 5-4.5-15. DISPOSITIONS.

19       (a) APPROPRIATE DISPOSITIONS. The following are  
20 appropriate dispositions, alone or in combination, for all  
21 felonies and misdemeanors other than as provided in Section  
22 5-5-3 (730 ILCS 5/5-5-3) or as specifically provided in the  
23 statute defining the offense or elsewhere:

24           (1) A period of probation.

25           (2) A term of periodic imprisonment.

1           (3) A term of conditional discharge.

2           (4) A term of imprisonment.

3           (5) A fine.

4           (6) Restitution to the victim.

5           (7) Participation in an impact incarceration program.

6           (8) A term of imprisonment in combination with a term  
7           of probation when the offender has been admitted into a  
8           drug court program.

9           (b) FINE; RESTITUTION; NOT SOLE DISPOSITION. Neither a fine  
10          nor restitution shall be the sole disposition for a felony, and  
11          either or both may be imposed only in conjunction with another  
12          disposition.

13          (c) PAROLE; MANDATORY SUPERVISED RELEASE. Except when a  
14          term of natural life is imposed, every sentence includes a term  
15          in addition to the term of imprisonment. For those sentenced  
16          under the law in effect before February 1, 1978, that term is a  
17          parole term. For those sentenced on or after February 1, 1978,  
18          that term is a mandatory supervised release term.

19          (730 ILCS 5/5-4.5-20 new)

20          Sec. 5-4.5-20. FIRST DEGREE MURDER; SENTENCE. For first  
21          degree murder:

22          (a) TERM. The defendant shall be sentenced to imprisonment  
23          or, if appropriate, death under Section 9-1 of the Criminal  
24          Code of 1961 (720 ILCS 5/9-1). Imprisonment shall be for a  
25          determinate term of (1) not less than 20 years and not more

1 than 60 years; (2) not less than 60 years and not more than 100  
2 years when an extended term is imposed under Section 5-8-2 (730  
3 ILCS 5/5-8-2); or (3) natural life as provided in Section 5-8-1  
4 (730 ILCS 5/5-8-1).

5 (b) PERIODIC IMPRISONMENT. A term of periodic imprisonment  
6 shall not be imposed.

7 (c) IMPACT INCARCERATION. The impact incarceration program  
8 or the county impact incarceration program is not an authorized  
9 disposition.

10 (d) PROBATION; CONDITIONAL DISCHARGE. A period of  
11 probation or conditional discharge shall not be imposed.

12 (e) FINE. Fines may be imposed as provided in Section  
13 5-4.5-50(b) (730 ILCS 5/5-4.5-50(b)).

14 (f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6)  
15 concerning restitution.

16 (g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall  
17 be concurrent or consecutive as provided in Section 5-8-4 (730  
18 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

19 (h) DRUG COURT. Drug court is not an authorized  
20 disposition.

21 (i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730  
22 ILCS 5/5-4.5-100) concerning no credit for time spent in home  
23 detention prior to judgment.

24 (j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 (730  
25 ILCS 5/3-6-3) for rules and regulations for early release based  
26 on good conduct.

1       (k) ELECTRONIC HOME DETENTION. Electronic home detention  
2 is not an authorized disposition, except in limited  
3 circumstances as provided in Section 5-8A-3 (730 ILCS  
4 5/5-8A-3).

5       (l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as  
6 provided in Section 3-3-8 (730 ILCS 5/3-3-8), the parole or  
7 mandatory supervised release term shall be 3 years upon release  
8 from imprisonment.

9       (730 ILCS 5/5-4.5-25 new)

10       Sec. 5-4.5-25. CLASS X FELONIES; SENTENCE. For a Class X  
11 felony:

12       (a) TERM. The sentence of imprisonment shall be a  
13 determinate sentence of not less than 6 years and not more than  
14 30 years. The sentence of imprisonment for an extended term  
15 Class X felony, as provided in Section 5-8-2 (730 ILCS  
16 5/5-8-2), shall be not less than 30 years and not more than 60  
17 years.

18       (b) PERIODIC IMPRISONMENT. A term of periodic imprisonment  
19 shall not be imposed.

20       (c) IMPACT INCARCERATION. The impact incarceration program  
21 or the county impact incarceration program is not an authorized  
22 disposition.

23       (d) PROBATION; CONDITIONAL DISCHARGE. A period of  
24 probation or conditional discharge shall not be imposed.

25       (e) FINE. Fines may be imposed as provided in Section

1 5-4.5-50(b) (730 ILCS 5/5-4.5-50(b)).

2 (f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6)  
3 concerning restitution.

4 (g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall  
5 be concurrent or consecutive as provided in Section 5-8-4 (730  
6 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

7 (h) DRUG COURT. See Section 20 of the Drug Court Treatment  
8 Act (730 ILCS 166/20) concerning eligibility for a drug court  
9 program.

10 (i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730  
11 ILCS 5/5-4.5-100) concerning no credit for time spent in home  
12 detention prior to judgment.

13 (j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 (730  
14 ILCS 5/3-6-3) for rules and regulations for early release based  
15 on good conduct.

16 (k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS  
17 5/5-8A-3) concerning eligibility for electronic home  
18 detention.

19 (l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as  
20 provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or  
21 5/5-8-1), the parole or mandatory supervised release term shall  
22 be 3 years upon release from imprisonment.

23 (730 ILCS 5/5-4.5-30 new)

24 Sec. 5-4.5-30. CLASS 1 FELONIES; SENTENCE. For a Class 1  
25 felony:

1       (a) TERM. The sentence of imprisonment, other than for  
2 second degree murder, shall be a determinate sentence of not  
3 less than 4 years and not more than 15 years. The sentence of  
4 imprisonment for second degree murder shall be a determinate  
5 sentence of not less than 4 years and not more than 20 years.  
6 The sentence of imprisonment for an extended term Class 1  
7 felony, as provided in Section 5-8-2 (730 ILCS 5/5-8-2), shall  
8 be a term not less than 15 years and not more than 30 years.

9       (b) PERIODIC IMPRISONMENT. A sentence of periodic  
10 imprisonment shall be for a definite term of from 3 to 4 years,  
11 except as otherwise provided in Section 5-5-3 or 5-7-1 (730  
12 ILCS 5/5-5-3 or 5/5-7-1).

13       (c) IMPACT INCARCERATION. See Sections 5-8-1.1 and 5-8-1.2  
14 (730 ILCS 5/5-8-1.1 and 5/5-8-1.2) concerning eligibility for  
15 the impact incarceration program or the county impact  
16 incarceration program.

17       (d) PROBATION; CONDITIONAL DISCHARGE. Except as provided  
18 in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the  
19 period of probation or conditional discharge shall not exceed 4  
20 years. The court shall specify the conditions of probation or  
21 conditional discharge as set forth in Section 5-6-3 (730 ILCS  
22 5/5-6-3). In no case shall an offender be eligible for a  
23 disposition of probation or conditional discharge for a Class 1  
24 felony committed while he or she was serving a term of  
25 probation or conditional discharge for a felony.

26       (e) FINE. Fines may be imposed as provided in Section

1 5-4.5-50(b) (730 ILCS 5/5-4.5-50(b)).

2 (f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6)  
3 concerning restitution.

4 (g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall  
5 be concurrent or consecutive as provided in Section 5-8-4 (730  
6 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

7 (h) DRUG COURT. See Section 20 of the Drug Court Treatment  
8 Act (730 ILCS 166/20) concerning eligibility for a drug court  
9 program.

10 (i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730  
11 ILCS 5/5-4.5-100) concerning credit for time spent in home  
12 detention prior to judgment.

13 (j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 of this  
14 Code (730 ILCS 5/3-6-3) or the County Jail Good Behavior  
15 Allowance Act (730 ILCS 130/) for rules and regulations for  
16 early release based on good conduct.

17 (k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS  
18 5/5-8A-3) concerning eligibility for electronic home  
19 detention.

20 (l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as  
21 provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or  
22 5/5-8-1), the parole or mandatory supervised release term shall  
23 be 2 years upon release from imprisonment.

24 (730 ILCS 5/5-4.5-35 new)

25 Sec. 5-4.5-35. CLASS 2 FELONIES; SENTENCE. For a Class 2



1 felony:

2 (a) TERM. The sentence of imprisonment shall be a  
3 determinate sentence of not less than 3 years and not more than  
4 7 years. The sentence of imprisonment for an extended term  
5 Class 2 felony, as provided in Section 5-8-2 (730 ILCS  
6 5/5-8-2), shall be a term not less than 7 years and not more  
7 than 14 years.

8 (b) PERIODIC IMPRISONMENT. A sentence of periodic  
9 imprisonment shall be for a definite term of from 18 to 30  
10 months, except as otherwise provided in Section 5-5-3 or 5-7-1  
11 (730 ILCS 5/5-5-3 or 5/5-7-1).

12 (c) IMPACT INCARCERATION. See Sections 5-8-1.1 and 5-8-1.2  
13 (730 ILCS 5/5-8-1.1 and 5/5-8-1.2) concerning eligibility for  
14 the impact incarceration program or the county impact  
15 incarceration program.

16 (d) PROBATION; CONDITIONAL DISCHARGE. Except as provided  
17 in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the  
18 period of probation or conditional discharge shall not exceed 4  
19 years. The court shall specify the conditions of probation or  
20 conditional discharge as set forth in Section 5-6-3 (730 ILCS  
21 5/5-6-3).

22 (e) FINE. Fines may be imposed as provided in Section  
23 5-4.5-50 (b) (730 ILCS 5/5-4.5-50 (b)).

24 (f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6)  
25 concerning restitution.

26 (g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall

1 be concurrent or consecutive as provided in Section 5-8-4 (730  
2 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

3 (h) DRUG COURT. See Section 20 of the Drug Court Treatment  
4 Act (730 ILCS 166/20) concerning eligibility for a drug court  
5 program.

6 (i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730  
7 ILCS 5/5-4.5-100) concerning credit for time spent in home  
8 detention prior to judgment.

9 (j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 of this  
10 Code (730 ILCS 5/3-6-3) or the County Jail Good Behavior  
11 Allowance Act (730 ILCS 130/) for rules and regulations for  
12 early release based on good conduct.

13 (k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS  
14 5/5-8A-3) concerning eligibility for electronic home  
15 detention.

16 (l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as  
17 provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or  
18 5/5-8-1), the parole or mandatory supervised release term shall  
19 be 2 years upon release from imprisonment.

20 (730 ILCS 5/5-4.5-40 new)

21 Sec. 5-4.5-40. CLASS 3 FELONIES; SENTENCE. For a Class 3  
22 felony:

23 (a) TERM. The sentence of imprisonment shall be a  
24 determinate sentence of not less than 2 years and not more than  
25 5 years. The sentence of imprisonment for an extended term

1 Class 3 felony, as provided in Section 5-8-2 (730 ILCS  
2 5/5-8-2), shall be a term not less than 5 years and not more  
3 than 10 years.

4 (b) PERIODIC IMPRISONMENT. A sentence of periodic  
5 imprisonment shall be for a definite term of up to 18 months,  
6 except as otherwise provided in Section 5-5-3 or 5-7-1 (730  
7 ILCS 5/5-5-3 or 5/5-7-1).

8 (c) IMPACT INCARCERATION. See Sections 5-8-1.1 and 5-8-1.2  
9 (730 ILCS 5/5-8-1.1 and 5/5-8-1.2) concerning eligibility for  
10 the impact incarceration program or the county impact  
11 incarceration program.

12 (d) PROBATION; CONDITIONAL DISCHARGE. Except as provided  
13 in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the  
14 period of probation or conditional discharge shall not exceed  
15 30 months. The court shall specify the conditions of probation  
16 or conditional discharge as set forth in Section 5-6-3 (730  
17 ILCS 5/5-6-3).

18 (e) FINE. Fines may be imposed as provided in Section  
19 5-4.5-50(b) (730 ILCS 5/5-4.5-50(b)).

20 (f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6)  
21 concerning restitution.

22 (g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall  
23 be concurrent or consecutive as provided in Section 5-8-4 (730  
24 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

25 (h) DRUG COURT. See Section 20 of the Drug Court Treatment  
26 Act (730 ILCS 166/20) concerning eligibility for a drug court

1 program.

2 (i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730  
3 ILCS 5/5-4.5-100) concerning credit for time spent in home  
4 detention prior to judgment.

5 (j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 of this  
6 Code (730 ILCS 5/3-6-3) or the County Jail Good Behavior  
7 Allowance Act (730 ILCS 130/) for rules and regulations for  
8 early release based on good conduct.

9 (k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS  
10 5/5-8A-3) concerning eligibility for electronic home  
11 detention.

12 (l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as  
13 provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or  
14 5/5-8-1), the parole or mandatory supervised release term shall  
15 be one year upon release from imprisonment.

16 (730 ILCS 5/5-4.5-45 new)  
17 Sec. 5-4.5-45. CLASS 4 FELONIES; SENTENCE. For a Class 4  
18 felony:

19 (a) TERM. The sentence of imprisonment shall be a  
20 determinate sentence of not less than one year and not more  
21 than 3 years. The sentence of imprisonment for an extended term  
22 Class 4 felony, as provided in Section 5-8-2 (730 ILCS  
23 5/5-8-2), shall be a term not less than 3 years and not more  
24 than 6 years.

25 (b) PERIODIC IMPRISONMENT. A sentence of periodic

1 imprisonment shall be for a definite term of up to 18 months,  
2 except as otherwise provided in Section 5-5-3 or 5-7-1 (730  
3 ILCS 5/5-5-3 or 5/5-7-1).

4 (c) IMPACT INCARCERATION. See Sections 5-8-1.1 and 5-8-1.2  
5 (730 ILCS 5/5-8-1.1 and 5/5-8-1.2) concerning eligibility for  
6 the impact incarceration program or the county impact  
7 incarceration program.

8 (d) PROBATION; CONDITIONAL DISCHARGE. Except as provided  
9 in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the  
10 period of probation or conditional discharge shall not exceed  
11 30 months. The court shall specify the conditions of probation  
12 or conditional discharge as set forth in Section 5-6-3 (730  
13 ILCS 5/5-6-3).

14 (e) FINE. Fines may be imposed as provided in Section  
15 5-4.5-50 (b) (730 ILCS 5/5-4.5-50 (b)).

16 (f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6)  
17 concerning restitution.

18 (g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall  
19 be concurrent or consecutive as provided in Section 5-8-4 (730  
20 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

21 (h) DRUG COURT. See Section 20 of the Drug Court Treatment  
22 Act (730 ILCS 166/20) concerning eligibility for a drug court  
23 program.

24 (i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730  
25 ILCS 5/5-4.5-100) concerning credit for time spent in home  
26 detention prior to judgment.

1       (j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 of this  
2       Code (730 ILCS 5/3-6-3) or the County Jail Good Behavior  
3       Allowance Act (730 ILCS 130/) for rules and regulations for  
4       early release based on good conduct.

5       (k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS  
6       5/5-8A-3) concerning eligibility for electronic home  
7       detention.

8       (l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as  
9       provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or  
10       5/5-8-1), the parole or mandatory supervised release term shall  
11       be one year upon release from imprisonment.

12       (730 ILCS 5/5-4.5-50 new)

13       Sec. 5-4.5-50. SENTENCE PROVISIONS; ALL FELONIES. Except  
14       as otherwise provided, for all felonies:

15       (a) NO SUPERVISION. The court, upon a plea of guilty or a  
16       stipulation by the defendant of the facts supporting the charge  
17       or a finding of guilt, may not defer further proceedings and  
18       the imposition of a sentence and may not enter an order for  
19       supervision of the defendant.

20       (b) FELONY FINES. An offender may be sentenced to pay a  
21       fine not to exceed, for each offense, \$25,000 or the amount  
22       specified in the offense, whichever is greater, or if the  
23       offender is a corporation, \$50,000 or the amount specified in  
24       the offense, whichever is greater. A fine may be imposed in  
25       addition to a sentence of conditional discharge, probation,

1 periodic imprisonment, or imprisonment. See Article 9 of  
2 Chapter V (730 ILCS 5/Ch. V, Art. 9) for imposition of  
3 additional amounts and determination of amounts and payment.

4 (c) REASONS FOR SENTENCE STATED. The sentencing judge in  
5 each felony conviction shall set forth his or her reasons for  
6 imposing the particular sentence entered in the case, as  
7 provided in Section 5-4-1 (730 ILCS 5/5-4-1). Those reasons may  
8 include any mitigating or aggravating factors specified in this  
9 Code, or the lack of any such factors, as well as any other  
10 mitigating or aggravating factors that the judge sets forth on  
11 the record that are consistent with the purposes and principles  
12 of sentencing set out in this Code.

13 (d) MOTION TO REDUCE SENTENCE. A motion to reduce a  
14 sentence may be made, or the court may reduce a sentence  
15 without motion, within 30 days after the sentence is imposed. A  
16 defendant's challenge to the correctness of a sentence or to  
17 any aspect of the sentencing hearing shall be made by a written  
18 motion filed with the circuit court clerk within 30 days  
19 following the imposition of sentence. A motion not filed within  
20 that 30-day period is not timely. The court may not increase a  
21 sentence once it is imposed. A notice of motion must be filed  
22 with the motion. The notice of motion shall set the motion on  
23 the court's calendar on a date certain within a reasonable time  
24 after the date of filing.

25 If a motion filed pursuant to this subsection is timely  
26 filed, the proponent of the motion shall exercise due diligence

1 in seeking a determination on the motion and the court shall  
2 thereafter decide the motion within a reasonable time.

3 If a motion filed pursuant to this subsection is timely  
4 filed, then for purposes of perfecting an appeal, a final  
5 judgment is not considered to have been entered until the  
6 motion to reduce the sentence has been decided by order entered  
7 by the trial court.

8 (e) CONCURRENT SENTENCE; PREVIOUS UNEXPIRED FEDERAL OR  
9 OTHER-STATE SENTENCE. A defendant who has a previous and  
10 unexpired sentence of imprisonment imposed by another state or  
11 by any district court of the United States and who, after  
12 sentence for a crime in Illinois, must return to serve the  
13 unexpired prior sentence may have his or her sentence by the  
14 Illinois court ordered to be concurrent with the prior  
15 other-state or federal sentence. The court may order that any  
16 time served on the unexpired portion of the other-state or  
17 federal sentence, prior to his or her return to Illinois, shall  
18 be credited on his or her Illinois sentence. The appropriate  
19 official of the other state or the United States shall be  
20 furnished with a copy of the order imposing sentence, which  
21 shall provide that, when the offender is released from  
22 other-state or federal confinement, whether by parole or by  
23 termination of sentence, the offender shall be transferred by  
24 the Sheriff of the committing Illinois county to the Illinois  
25 Department of Corrections. The court shall cause the Department  
26 of Corrections to be notified of the sentence at the time of



1 commitment and to be provided with copies of all records  
2 regarding the sentence.

3 (f) REDUCTION; PREVIOUS UNEXPIRED ILLINOIS SENTENCE. A  
4 defendant who has a previous and unexpired sentence of  
5 imprisonment imposed by an Illinois circuit court for a crime  
6 in this State and who is subsequently sentenced to a term of  
7 imprisonment by another state or by any district court of the  
8 United States and who has served a term of imprisonment imposed  
9 by the other state or district court of the United States, and  
10 must return to serve the unexpired prior sentence imposed by  
11 the Illinois circuit court, may apply to the Illinois circuit  
12 court that imposed sentence to have his or her sentence  
13 reduced.

14 The circuit court may order that any time served on the  
15 sentence imposed by the other state or district court of the  
16 United States be credited on his or her Illinois sentence. The  
17 application for reduction of a sentence under this subsection  
18 shall be made within 30 days after the defendant has completed  
19 the sentence imposed by the other state or district court of  
20 the United States.

21 (g) NO REQUIRED BIRTH CONTROL. A court may not impose a  
22 sentence or disposition that requires the defendant to be  
23 implanted or injected with or to use any form of birth control.

24 (730 ILCS 5/5-4.5-55 new)

25 Sec. 5-4.5-55. CLASS A MISDEMEANORS; SENTENCE. For a Class

1 A misdemeanor:

2 (a) TERM. The sentence of imprisonment shall be a  
3 determinate sentence of less than one year.

4 (b) PERIODIC IMPRISONMENT. A sentence of periodic  
5 imprisonment shall be for a definite term of less than one  
6 year, except as otherwise provided in Section 5-5-3 or 5-7-1  
7 (730 ILCS 5/5-5-3 or 5/5-7-1).

8 (c) IMPACT INCARCERATION. See Section 5-8-1.2 (730 ILCS  
9 5/5-8-1.2) concerning eligibility for the county impact  
10 incarceration program.

11 (d) PROBATION; CONDITIONAL DISCHARGE. Except as provided  
12 in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the  
13 period of probation or conditional discharge shall not exceed 2  
14 years. The court shall specify the conditions of probation or  
15 conditional discharge as set forth in Section 5-6-3 (730 ILCS  
16 5/5-6-3).

17 (e) FINE. A fine not to exceed \$2,500 for each offense or  
18 the amount specified in the offense, whichever is greater, may  
19 be imposed. A fine may be imposed in addition to a sentence of  
20 conditional discharge, probation, periodic imprisonment, or  
21 imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V,  
22 Art. 9) for imposition of additional amounts and determination  
23 of amounts and payment.

24 (f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6)  
25 concerning restitution.

26 (g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall

1 be concurrent or consecutive as provided in Section 5-8-4 (730  
2 ILCS 5/5-8-4).

3 (h) DRUG COURT. See Section 20 of the Drug Court Treatment  
4 Act (730 ILCS 166/20) concerning eligibility for a drug court  
5 program.

6 (i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730  
7 ILCS 5/5-4.5-100) concerning credit for time spent in home  
8 detention prior to judgment.

9 (j) EARLY RELEASE; GOOD CONDUCT. See the County Jail Good  
10 Behavior Allowance Act (730 ILCS 130/) for rules and  
11 regulations for early release based on good conduct.

12 (k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS  
13 5/5-8A-3) concerning eligibility for electronic home  
14 detention.

15 (730 ILCS 5/5-4.5-60 new)  
16 Sec. 5-4.5-60. CLASS B MISDEMEANORS; SENTENCE. For a Class  
17 B misdemeanor:

18 (a) TERM. The sentence of imprisonment shall be a  
19 determinate sentence of not more than 6 months.

20 (b) PERIODIC IMPRISONMENT. A sentence of periodic  
21 imprisonment shall be for a definite term of up to 6 months or  
22 as otherwise provided in Section 5-7-1 (730 ILCS 5/5-7-1).

23 (c) IMPACT INCARCERATION. See Section 5-8-1.2 (730 ILCS  
24 5/5-8-1.2) concerning eligibility for the county impact  
25 incarceration program.

1       (d) PROBATION; CONDITIONAL DISCHARGE. Except as provided  
2 in Section 5-6-2 (730 ILCS 5/5-6-2), the period of probation or  
3 conditional discharge shall not exceed 2 years. The court shall  
4 specify the conditions of probation or conditional discharge as  
5 set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

6       (e) FINE. A fine not to exceed \$1,500 for each offense or  
7 the amount specified in the offense, whichever is greater, may  
8 be imposed. A fine may be imposed in addition to a sentence of  
9 conditional discharge, probation, periodic imprisonment, or  
10 imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V,  
11 Art. 9) for imposition of additional amounts and determination  
12 of amounts and payment.

13       (f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6)  
14 concerning restitution.

15       (g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall  
16 be concurrent or consecutive as provided in Section 5-8-4 (730  
17 ILCS 5/5-8-4).

18       (h) DRUG COURT. See Section 20 of the Drug Court Treatment  
19 Act (730 ILCS 166/20) concerning eligibility for a drug court  
20 program.

21       (i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730  
22 ILCS 5/5-4.5-100) concerning credit for time spent in home  
23 detention prior to judgment.

24       (j) EARLY RELEASE; GOOD CONDUCT. See the County Jail Good  
25 Behavior Allowance Act (730 ILCS 130/) for rules and  
26 regulations for early release based on good conduct.

1       (k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS  
2       5/5-8A-3) concerning eligibility for electronic home  
3       detention.

4       (730 ILCS 5/5-4.5-65 new)  
5       Sec. 5-4.5-65. CLASS C MISDEMEANORS; SENTENCE. For a Class  
6       C misdemeanor:

7       (a) TERM. The sentence of imprisonment shall be a  
8       determinate sentence of not more than 30 days.

9       (b) PERIODIC IMPRISONMENT. A sentence of periodic  
10       imprisonment shall be for a definite term of up to 30 days or  
11       as otherwise provided in Section 5-7-1 (730 ILCS 5/5-7-1).

12       (c) IMPACT INCARCERATION. See Section 5-8-1.2 (730 ILCS  
13       5/5-8-1.2) concerning eligibility for the county impact  
14       incarceration program.

15       (d) PROBATION; CONDITIONAL DISCHARGE. Except as provided  
16       in Section 5-6-2 (730 ILCS 5/5-6-2), the period of probation or  
17       conditional discharge shall not exceed 2 years. The court shall  
18       specify the conditions of probation or conditional discharge as  
19       set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

20       (e) FINE. A fine not to exceed \$1,500 for each offense or  
21       the amount specified in the offense, whichever is greater, may  
22       be imposed. A fine may be imposed in addition to a sentence of  
23       conditional discharge, probation, periodic imprisonment, or  
24       imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V,  
25       Art. 9) for imposition of additional amounts and determination

1 of amounts and payment.

2 (f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6)  
3 concerning restitution.

4 (g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall  
5 be concurrent or consecutive as provided in Section 5-8-4 (730  
6 ILCS 5/5-8-4).

7 (h) DRUG COURT. See Section 20 of the Drug Court Treatment  
8 Act (730 ILCS 166/20) concerning eligibility for a drug court  
9 program.

10 (i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730  
11 ILCS 5/5-4.5-100) concerning credit for time spent in home  
12 detention prior to judgment.

13 (j) EARLY RELEASE; GOOD CONDUCT. See the County Jail Good  
14 Behavior Allowance Act (730 ILCS 130/) for rules and  
15 regulations for early release based on good conduct.

16 (k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS  
17 5/5-8A-3) concerning eligibility for electronic home  
18 detention.

19 (730 ILCS 5/5-4.5-70 new)

20 Sec. 5-4.5-70. SENTENCE PROVISIONS; ALL MISDEMEANORS.  
21 Except as otherwise provided, for all misdemeanors:

22 (a) SUPERVISION; ORDER. The court, upon a plea of guilty or  
23 a stipulation by the defendant of the facts supporting the  
24 charge or a finding of guilt, may defer further proceedings and  
25 the imposition of a sentence and may enter an order for

1 supervision of the defendant. If the defendant is not barred  
2 from receiving an order for supervision under Section 5-6-1  
3 (730 ILCS 5/5-6-1) or otherwise, the court may enter an order  
4 for supervision after considering the circumstances of the  
5 offense, and the history, character, and condition of the  
6 offender, if the court is of the opinion that:

7 (1) the defendant is not likely to commit further  
8 crimes;

9 (2) the defendant and the public would be best served  
10 if the defendant were not to receive a criminal record; and

11 (3) in the best interests of justice, an order of  
12 supervision is more appropriate than a sentence otherwise  
13 permitted under this Code.

14 (b) SUPERVISION; PERIOD. When a defendant is placed on  
15 supervision, the court shall enter an order for supervision  
16 specifying the period of supervision, and shall defer further  
17 proceedings in the case until the conclusion of the period. The  
18 period of supervision shall be reasonable under all of the  
19 circumstances of the case, and except as otherwise provided,  
20 may not be longer than 2 years, unless the defendant has failed  
21 to pay the assessment required by Section 10.3 of the Cannabis  
22 Control Act (720 ILCS 550/10.3), Section 411.2 of the Illinois  
23 Controlled Substances Act (720 ILCS 570/411.2), or Section 80  
24 of the Methamphetamine Control and Community Protection Act  
25 (720 ILCS 646/80), in which case the court may extend  
26 supervision beyond 2 years. The court shall specify the

1 conditions of supervision as set forth in Section 5-6-3.1 (730  
2 ILCS 5/5-6-3.1).

3 (c) NO REQUIRED BIRTH CONTROL. A court may not impose a  
4 sentence or disposition that requires the defendant to be  
5 implanted or injected with or to use any form of birth control.

6 (730 ILCS 5/5-4.5-75 new)

7 Sec. 5-4.5-75. PETTY OFFENSES; SENTENCE. Except as  
8 otherwise provided, for a petty offense:

9 (a) FINE. A defendant may be sentenced to pay a fine not to  
10 exceed \$1,000 for each offense or the amount specified in the  
11 offense, whichever is less. A fine may be imposed in addition  
12 to a sentence of conditional discharge or probation. See  
13 Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) for  
14 imposition of additional amounts and determination of amounts  
15 and payment.

16 (b) PROBATION; CONDITIONAL DISCHARGE. Except as provided  
17 in Section 5-6-2 (730 ILCS 5/5-6-2), a defendant may be  
18 sentenced to a period of probation or conditional discharge not  
19 to exceed 6 months. The court shall specify the conditions of  
20 probation or conditional discharge as set forth in Section  
21 5-6-3 (730 ILCS 5/5-6-3).

22 (c) RESTITUTION. A defendant may be sentenced to make  
23 restitution to the victim under Section 5-5-6 (730 ILCS  
24 5/5-5-6).

25 (d) SUPERVISION; ORDER. The court, upon a plea of guilty or



1 a stipulation by the defendant of the facts supporting the  
2 charge or a finding of guilt, may defer further proceedings and  
3 the imposition of a sentence and may enter an order for  
4 supervision of the defendant. If the defendant is not barred  
5 from receiving an order for supervision under Section 5-6-1  
6 (730 5/5-6-1) or otherwise, the court may enter an order for  
7 supervision after considering the circumstances of the  
8 offense, and the history, character, and condition of the  
9 offender, if the court is of the opinion that:

10 (1) the defendant is not likely to commit further  
11 crimes;

12 (2) the defendant and the public would be best served  
13 if the defendant were not to receive a criminal record; and

14 (3) in the best interests of justice, an order of  
15 supervision is more appropriate than a sentence otherwise  
16 permitted under this Code.

17 (e) SUPERVISION; PERIOD. When a defendant is placed on  
18 supervision, the court shall enter an order for supervision  
19 specifying the period of supervision, and shall defer further  
20 proceedings in the case until the conclusion of the period. The  
21 period of supervision shall be reasonable under all of the  
22 circumstances of the case, and except as otherwise provided,  
23 may not be longer than 2 years. The court shall specify the  
24 conditions of supervision as set forth in Section 5-6-3.1 (730  
25 ILCS 5/5-6-3.1).

1 (730 ILCS 5/5-4.5-80 new)

2 Sec. 5-4.5-80. BUSINESS OFFENSES; SENTENCE. Except as  
3 otherwise provided, for a business offense:

4 (a) FINE. A defendant may be sentenced to pay a fine not to  
5 exceed for each offense the amount specified in the statute  
6 defining that offense. A fine may be imposed in addition to a  
7 sentence of conditional discharge. See Article 9 of Chapter V  
8 (730 ILCS 5/Ch. V, Art. 9) for imposition of additional amounts  
9 and determination of amounts and payment.

10 (b) CONDITIONAL DISCHARGE. Except as provided in Section  
11 5-6-2 (730 ILCS 5/5-6-2), a defendant may be sentenced to a  
12 period of conditional discharge not to exceed 6 months. The  
13 court shall specify the conditions of conditional discharge as  
14 set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

15 (c) RESTITUTION. A defendant may be sentenced to make  
16 restitution to the victim under Section 5-5-6 (730 ILCS  
17 5/5-5-6).

18 (d) SUPERVISION; ORDER. The court, upon a plea of guilty or  
19 a stipulation by the defendant of the facts supporting the  
20 charge or a finding of guilt, may defer further proceedings and  
21 the imposition of a sentence and may enter an order for  
22 supervision of the defendant. If the defendant is not barred  
23 from receiving an order for supervision under Section 5-6-1  
24 (730 5/5-6-1) or otherwise, the court may enter an order for  
25 supervision after considering the circumstances of the  
26 offense, and the history, character, and condition of the

1 offender, if the court is of the opinion that:

2 (1) the defendant is not likely to commit further  
3 crimes;

4 (2) the defendant and the public would be best served  
5 if the defendant were not to receive a criminal record; and

6 (3) in the best interests of justice, an order of  
7 supervision is more appropriate than a sentence otherwise  
8 permitted under this Code.

9 (e) SUPERVISION; PERIOD. When a defendant is placed on  
10 supervision, the court shall enter an order for supervision  
11 specifying the period of supervision, and shall defer further  
12 proceedings in the case until the conclusion of the period. The  
13 period of supervision shall be reasonable under all of the  
14 circumstances of the case, and except as otherwise provided,  
15 may not be longer than 2 years. The court shall specify the  
16 conditions of supervision as set forth in Section 5-6-3.1 (730  
17 ILCS 5/5-6-3.1).

18 (730 ILCS 5/5-4.5-85 new)

19 Sec. 5-4.5-85. UNCLASSIFIED OFFENSES; SENTENCE.

20 (a) FELONY. The particular classification of each felony is  
21 specified in the law defining the felony. Any unclassified  
22 offense that is declared by law to be a felony or that provides  
23 a sentence to a term of imprisonment for one year or more is a  
24 Class 4 felony.

25 (b) MISDEMEANOR. The particular classification of each

1 misdemeanor is specified in the law or ordinance defining the  
2 misdemeanor.

3 (1) Any offense not so classified that provides a  
4 sentence to a term of imprisonment of less than one year  
5 but in excess of 6 months is a Class A misdemeanor.

6 (2) Any offense not so classified that provides a  
7 sentence to a term of imprisonment of 6 months or less but  
8 in excess of 30 days is a Class B misdemeanor.

9 (3) Any offense not so classified that provides a  
10 sentence to a term of imprisonment of 30 days or less is a  
11 Class C misdemeanor.

12 (c) PETTY OR BUSINESS OFFENSE. Any unclassified offense  
13 that does not provide for a sentence of imprisonment is a petty  
14 offense or a business offense.

15 (730 ILCS 5/5-4.5-90 new)

16 Sec. 5-4.5-90. OTHER REMEDIES NOT LIMITED. This Article  
17 does not deprive a court in other proceedings of the power to  
18 order a forfeiture of property, to suspend or cancel a license,  
19 to remove a person from office, or to impose any other civil  
20 penalty.

21 (730 ILCS 5/5-4.5-95 new)

22 Sec. 5-4.5-95. GENERAL RECIDIVISM PROVISIONS.

23 (a) HABITUAL CRIMINALS.

24 (1) Every person who has been twice convicted in any

1 state or federal court of an offense that contains the same  
2 elements as an offense now (the date of the offense  
3 committed after the 2 prior convictions) classified in  
4 Illinois as a Class X felony, criminal sexual assault,  
5 aggravated kidnapping, or first degree murder, and who is  
6 thereafter convicted of a Class X felony, criminal sexual  
7 assault, or first degree murder, committed after the 2  
8 prior convictions, shall be adjudged an habitual criminal.

9 (2) The 2 prior convictions need not have been for the  
10 same offense.

11 (3) Any convictions that result from or are connected  
12 with the same transaction, or result from offenses  
13 committed at the same time, shall be counted for the  
14 purposes of this Section as one conviction.

15 (4) This Section does not apply unless each of the  
16 following requirements are satisfied:

17 (A) The third offense was committed after July 3,  
18 1980.

19 (B) The third offense was committed within 20 years  
20 of the date that judgment was entered on the first  
21 conviction; provided, however, that time spent in  
22 custody shall not be counted.

23 (C) The third offense was committed after  
24 conviction on the second offense.

25 (D) The second offense was committed after  
26 conviction on the first offense.

1       (5) Except when the death penalty is imposed, anyone  
2       adjudged an habitual criminal shall be sentenced to a term  
3       of natural life imprisonment.

4       (6) A prior conviction shall not be alleged in the  
5       indictment, and no evidence or other disclosure of that  
6       conviction shall be presented to the court or the jury  
7       during the trial of an offense set forth in this Section  
8       unless otherwise permitted by the issues properly raised in  
9       that trial. After a plea or verdict or finding of guilty  
10      and before sentence is imposed, the prosecutor may file  
11      with the court a verified written statement signed by the  
12      State's Attorney concerning any former conviction of an  
13      offense set forth in this Section rendered against the  
14      defendant. The court shall then cause the defendant to be  
15      brought before it; shall inform the defendant of the  
16      allegations of the statement so filed, and of his or her  
17      right to a hearing before the court on the issue of that  
18      former conviction and of his or her right to counsel at  
19      that hearing; and unless the defendant admits such  
20      conviction, shall hear and determine the issue, and shall  
21      make a written finding thereon. If a sentence has  
22      previously been imposed, the court may vacate that sentence  
23      and impose a new sentence in accordance with this Section.

24      (7) A duly authenticated copy of the record of any  
25      alleged former conviction of an offense set forth in this  
26      Section shall be prima facie evidence of that former

1       conviction; and a duly authenticated copy of the record of  
2       the defendant's final release or discharge from probation  
3       granted, or from sentence and parole supervision (if any)  
4       imposed pursuant to that former conviction, shall be prima  
5       facie evidence of that release or discharge.

6       (8) Any claim that a previous conviction offered by the  
7       prosecution is not a former conviction of an offense set  
8       forth in this Section because of the existence of any  
9       exceptions described in this Section, is waived unless duly  
10      raised at the hearing on that conviction, or unless the  
11      prosecution's proof shows the existence of the exceptions  
12      described in this Section.

13      (9) If the person so convicted shows to the  
14      satisfaction of the court before whom that conviction was  
15      had that he or she was released from imprisonment, upon  
16      either of the sentences upon a pardon granted for the  
17      reason that he or she was innocent, that conviction and  
18      sentence shall not be considered under this Section.

19      (b) When a defendant, over the age of 21 years, is  
20      convicted of a Class 1 or Class 2 felony, after having twice  
21      been convicted in any state or federal court of an offense that  
22      contains the same elements as an offense now (the date the  
23      Class 1 or Class 2 felony was committed) classified in Illinois  
24      as a Class 2 or greater Class felony and those charges are  
25      separately brought and tried and arise out of different series  
26      of acts, that defendant shall be sentenced as a Class X

1 offender. This subsection does not apply unless:

2 (1) the first felony was committed after February 1,  
3 1978 (the effective date of Public Act 80-1099);

4 (2) the second felony was committed after conviction on  
5 the first; and

6 (3) the third felony was committed after conviction on  
7 the second.

8 A person sentenced as a Class X offender under this  
9 subsection (b) is not eligible to apply for treatment as a  
10 condition of probation as provided by Section 40-10 of the  
11 Alcoholism and Other Drug Abuse and Dependency Act (20 ILCS  
12 301/40-10).

13 (730 ILCS 5/5-4.5-100 new)

14 Sec. 5-4.5-100. CALCULATION OF TERM OF IMPRISONMENT.

15 (a) COMMENCEMENT. A sentence of imprisonment shall  
16 commence on the date on which the offender is received by the  
17 Department or the institution at which the sentence is to be  
18 served.

19 (b) CREDIT; TIME IN CUSTODY; SAME CHARGE. The offender  
20 shall be given credit on the determinate sentence or maximum  
21 term and the minimum period of imprisonment for time spent in  
22 custody as a result of the offense for which the sentence was  
23 imposed, at the rate specified in Section 3-6-3 (730 ILCS  
24 5/3-6-3). Except when prohibited by subsection (d), the trial  
25 court may give credit to the defendant for time spent in home



1 detention, or when the defendant has been confined for  
2 psychiatric or substance abuse treatment prior to judgment, if  
3 the court finds that the detention or confinement was  
4 custodial.

5 (c) CREDIT; TIME IN CUSTODY; FORMER CHARGE. An offender  
6 arrested on one charge and prosecuted on another charge for  
7 conduct that occurred prior to his or her arrest shall be given  
8 credit on the determinate sentence or maximum term and the  
9 minimum term of imprisonment for time spent in custody under  
10 the former charge not credited against another sentence.

11 (d) NO CREDIT; SOME HOME DETENTION. An offender sentenced  
12 to a term of imprisonment for an offense listed in paragraph  
13 (2) of subsection (c) of Section 5-5-3 (730 ILCS 5/5-5-3) or in  
14 paragraph (3) of subsection (c-1) of Section 11-501 of the  
15 Illinois Vehicle Code (625 ILCS 5/11-501) shall not receive  
16 credit for time spent in home detention prior to judgment.

17 (730 ILCS 5/5-4.5-990 new)

18 Sec. 5-4.5-990. PRIOR LAW; OTHER ACTS; PRIOR SENTENCING.

19 (a) This Article 4.5 and the other provisions of this  
20 amendatory Act of the 95th General Assembly consolidate and  
21 unify certain criminal sentencing provisions and make  
22 conforming changes in the law.

23 (b) A provision of this Article 4.5 or any other provision  
24 of this amendatory Act of the 95th General Assembly that is the  
25 same or substantially the same as a prior law shall be

1 construed as a continuation of the prior law and not as a new  
2 or different law.

3 (c) A citation in this Code or in another Act to a  
4 provision consolidated or unified in this Article 4.5 or to any  
5 other provision consolidated or unified in this amendatory Act  
6 of the 95th General Assembly shall be construed to be a  
7 citation to that consolidated or unified provision.

8 (d) If any other Act of the General Assembly changes, adds,  
9 or repeals a provision of prior law that is consolidated or  
10 unified in this Article 4.5 or in any other provision of this  
11 amendatory Act of the 95th General Assembly, then that change,  
12 addition, or repeal shall be construed together with this  
13 Article 4.5 and the other provisions of this amendatory Act of  
14 the 95th General Assembly.

15 (e) Sentencing for any violation of the law occurring  
16 before the effective date of this amendatory Act of the 95th  
17 General Assembly is not affected or abated by this amendatory  
18 Act of the 95th General Assembly.

19 Section 80. The Criminal Code of 1961 is amended by  
20 changing Sections 10-5 and 33A-3 as follows:

21 (720 ILCS 5/10-5) (from Ch. 38, par. 10-5)

22 Sec. 10-5. Child Abduction.

23 (a) For purposes of this Section, the following terms shall  
24 have the following meanings:

1           (1) "Child" means a person under the age of 18 or a  
2           severely or profoundly mentally retarded person at the time  
3           the alleged violation occurred; and

4           (2) "Detains" means taking or retaining physical  
5           custody of a child, whether or not the child resists or  
6           objects; and

7           (3) "Lawful custodian" means a person or persons  
8           granted legal custody of a child or entitled to physical  
9           possession of a child pursuant to a court order. It is  
10          presumed that, when the parties have never been married to  
11          each other, the mother has legal custody of the child  
12          unless a valid court order states otherwise. If an  
13          adjudication of paternity has been completed and the father  
14          has been assigned support obligations or visitation  
15          rights, such a paternity order should, for the purposes of  
16          this Section be considered a valid court order granting  
17          custody to the mother.

18          (b) A person commits child abduction when he or she:

19               (1) Intentionally violates any terms of a valid court  
20               order granting sole or joint custody, care or possession to  
21               another, by concealing or detaining the child or removing  
22               the child from the jurisdiction of the court; or

23               (2) Intentionally violates a court order prohibiting  
24               the person from concealing or detaining the child or  
25               removing the child from the jurisdiction of the court; or

26               (3) Intentionally conceals, detains or removes the

1 child without the consent of the mother or lawful custodian  
2 of the child if the person is a putative father and either:  
3 (A) the paternity of the child has not been legally  
4 established or (B) the paternity of the child has been  
5 legally established but no orders relating to custody have  
6 been entered. However, notwithstanding the presumption  
7 created by paragraph (3) of subsection (a), a mother  
8 commits child abduction when she intentionally conceals or  
9 removes a child, whom she has abandoned or relinquished  
10 custody of, from an unadjudicated father who has provided  
11 sole ongoing care and custody of the child in her absence;  
12 or

13 (4) Intentionally conceals or removes the child from a  
14 parent after filing a petition or being served with process  
15 in an action affecting marriage or paternity but prior to  
16 the issuance of a temporary or final order determining  
17 custody; or

18 (5) At the expiration of visitation rights outside the  
19 State, intentionally fails or refuses to return or impedes  
20 the return of the child to the lawful custodian in  
21 Illinois; or

22 (6) Being a parent of the child, and where the parents  
23 of such child are or have been married and there has been  
24 no court order of custody, conceals the child for 15 days,  
25 and fails to make reasonable attempts within the 15 day  
26 period to notify the other parent as to the specific

1        whereabouts of the child, including a means by which to  
2        contact such child, or to arrange reasonable visitation or  
3        contact with the child. It is not a violation of this  
4        Section for a person fleeing domestic violence to take the  
5        child with him or her to housing provided by a domestic  
6        violence program; or

7            (7) Being a parent of the child, and where the parents  
8        of the child are or have been married and there has been no  
9        court order of custody, conceals, detains, or removes the  
10      child with physical force or threat of physical force; or

11          (8) Conceals, detains, or removes the child for payment  
12      or promise of payment at the instruction of a person who  
13      has no legal right to custody; or

14          (9) Retains in this State for 30 days a child removed  
15      from another state without the consent of the lawful  
16      custodian or in violation of a valid court order of  
17      custody; or

18          (10) Intentionally lures or attempts to lure a child  
19      under the age of 16 into a motor vehicle, building,  
20      housetrailer, or dwelling place without the consent of the  
21      parent or lawful custodian of the child for other than a  
22      lawful purpose.

23      For the purposes of this subsection (b), paragraph (10),  
24      the luring or attempted luring of a child under the age of 16  
25      into a motor vehicle, building, housetrailer, or dwelling place  
26      without the consent of the parent or lawful custodian of the

1 child shall be prima facie evidence of other than a lawful  
2 purpose.

3 (c) It shall be an affirmative defense that:

4 (1) The person had custody of the child pursuant to a  
5 court order granting legal custody or visitation rights  
6 which existed at the time of the alleged violation; or

7 (2) The person had physical custody of the child  
8 pursuant to a court order granting legal custody or  
9 visitation rights and failed to return the child as a  
10 result of circumstances beyond his or her control, and the  
11 person notified and disclosed to the other parent or legal  
12 custodian the specific whereabouts of the child and a means  
13 by which such child can be contacted or made a reasonable  
14 attempt to notify the other parent or lawful custodian of  
15 the child of such circumstances and make such disclosure  
16 within 24 hours after the visitation period had expired and  
17 returned the child as soon as possible; or

18 (3) The person was fleeing an incidence or pattern of  
19 domestic violence; or

20 (4) The person lured or attempted to lure a child under  
21 the age of 16 into a motor vehicle, building, housetrailer,  
22 or dwelling place for a lawful purpose in prosecutions  
23 under subsection (b), paragraph (10).

24 (d) A person convicted of child abduction under this  
25 Section is guilty of a Class 4 felony. A person convicted of a  
26 second or subsequent violation of paragraph (10) of subsection

1 (b) of this Section is guilty of a Class 3 felony. It shall be a  
2 factor in aggravation for which a court may impose a more  
3 severe sentence under Section 5-8-1 (730 ILCS 5/5-8-1) or  
4 Article 4.5 of Chapter V of the Unified Code of Corrections, if  
5 upon sentencing the court finds evidence of any of the  
6 following aggravating factors:

7 (1) that the defendant abused or neglected the child  
8 following the concealment, detention or removal of the  
9 child; or

10 (2) that the defendant inflicted or threatened to  
11 inflict physical harm on a parent or lawful custodian of  
12 the child or on the child with intent to cause such parent  
13 or lawful custodian to discontinue criminal prosecution of  
14 the defendant under this Section; or

15 (3) that the defendant demanded payment in exchange for  
16 return of the child or demanded that he or she be relieved  
17 of the financial or legal obligation to support the child  
18 in exchange for return of the child; or

19 (4) that the defendant has previously been convicted of  
20 child abduction; or

21 (5) that the defendant committed the abduction while  
22 armed with a deadly weapon or the taking of the child  
23 resulted in serious bodily injury to another; or

24 (6) that the defendant committed the abduction while in  
25 a school, regardless of the time of day or time of year; in  
26 a playground; on any conveyance owned, leased, or

1       contracted by a school to transport students to or from  
2       school or a school related activity; on the real property  
3       of a school; or on a public way within 1,000 feet of the  
4       real property comprising any school or playground. For  
5       purposes of this paragraph (6), "playground" means a piece  
6       of land owned or controlled by a unit of local government  
7       that is designated by the unit of local government for use  
8       solely or primarily for children's recreation; and  
9       "school" means a public or private elementary or secondary  
10      school, community college, college, or university.

11      (e) The court may order the child to be returned to the  
12      parent or lawful custodian from whom the child was concealed,  
13      detained or removed. In addition to any sentence imposed, the  
14      court may assess any reasonable expense incurred in searching  
15      for or returning the child against any person convicted of  
16      violating this Section.

17      (f) Nothing contained in this Section shall be construed to  
18      limit the court's contempt power.

19      (g) Every law enforcement officer investigating an alleged  
20      incident of child abduction shall make a written police report  
21      of any bona fide allegation and the disposition of such  
22      investigation. Every police report completed pursuant to this  
23      Section shall be compiled and recorded within the meaning of  
24      Section 5.1 of "An Act in relation to criminal identification  
25      and investigation", approved July 2, 1931, as now or hereafter  
26      amended.



1           (h) Whenever a law enforcement officer has reasons to  
2 believe a child abduction has occurred, he shall provide the  
3 lawful custodian a summary of her or his rights under this Act,  
4 including the procedures and relief available to her or him.

5           (i) If during the course of an investigation under this  
6 Section the child is found in the physical custody of the  
7 defendant or another, the law enforcement officer shall return  
8 the child to the parent or lawful custodian from whom the child  
9 was concealed, detained or removed, unless there is good cause  
10 for the law enforcement officer or the Department of Children  
11 and Family Services to retain temporary protective custody of  
12 the child pursuant to the Abused and Neglected Child Reporting  
13 Act, as now or hereafter amended.

14       (Source: P.A. 92-434, eff. 1-1-02.)

15           (720 ILCS 5/33A-3) (from Ch. 38, par. 33A-3)

16       Sec. 33A-3. Sentence.

17           (a) Violation of Section 33A-2(a) with a Category I weapon  
18 is a Class X felony for which the defendant shall be sentenced  
19 to a minimum term of imprisonment of 15 years.

20           (a-5) Violation of Section 33A-2(a) with a Category II  
21 weapon is a Class X felony for which the defendant shall be  
22 sentenced to a minimum term of imprisonment of 10 years.

23           (b) Violation of Section 33A-2(a) with a Category III  
24 weapon is a Class 2 felony or the felony classification  
25 provided for the same act while unarmed, whichever permits the

1 greater penalty. A second or subsequent violation of Section  
2 33A-2(a) with a Category III weapon is a Class 1 felony or the  
3 felony classification provided for the same act while unarmed,  
4 whichever permits the greater penalty.

5 (b-5) Violation of Section 33A-2(b) with a firearm that is  
6 a Category I or Category II weapon is a Class X felony for  
7 which the defendant shall be sentenced to a minimum term of  
8 imprisonment of 20 years.

9 (b-10) Violation of Section 33A-2(c) with a firearm that is  
10 a Category I or Category II weapon is a Class X felony for  
11 which the defendant shall be sentenced to a term of  
12 imprisonment of not less than 25 years nor more than 40 years.

13 (c) Unless sentencing under subsection (a) of Section  
14 5-4.5-95 of the Unified Code of Corrections (730 ILCS  
15 5/5-4.5-95) ~~Section 33B-1~~ is applicable, any person who  
16 violates subsection (a) or (b) of Section 33A-2 with a firearm,  
17 when that person has been convicted in any state or federal  
18 court of 3 or more of the following offenses: treason, first  
19 degree murder, second degree murder, predatory criminal sexual  
20 assault of a child, aggravated criminal sexual assault,  
21 criminal sexual assault, robbery, burglary, arson, kidnaping,  
22 aggravated battery resulting in great bodily harm or permanent  
23 disability or disfigurement, a violation of the  
24 Methamphetamine Control and Community Protection Act, or a  
25 violation of Section 401(a) of the Illinois Controlled  
26 Substances Act, when the third offense was committed after

1 conviction on the second, the second offense was committed  
2 after conviction on the first, and the violation of Section  
3 33A-2 was committed after conviction on the third, shall be  
4 sentenced to a term of imprisonment of not less than 25 years  
5 nor more than 50 years.

6 (c-5) Except as otherwise provided in paragraph (b-10) or  
7 (c) of this Section, a person who violates Section 33A-2(a)  
8 with a firearm that is a Category I weapon or Section 33A-2(b)  
9 in any school, in any conveyance owned, leased, or contracted  
10 by a school to transport students to or from school or a school  
11 related activity, or on the real property comprising any school  
12 or public park, and where the offense was related to the  
13 activities of an organized gang, shall be sentenced to a term  
14 of imprisonment of not less than the term set forth in  
15 subsection (a) or (b-5) of this Section, whichever is  
16 applicable, and not more than 30 years. For the purposes of  
17 this subsection (c-5), "organized gang" has the meaning  
18 ascribed to it in Section 10 of the Illinois Streetgang  
19 Terrorism Omnibus Prevention Act.

20 (d) For armed violence based upon a predicate offense  
21 listed in this subsection (d) the court shall enter the  
22 sentence for armed violence to run consecutively to the  
23 sentence imposed for the predicate offense. The offenses  
24 covered by this provision are:

25 (i) solicitation of murder,

26 (ii) solicitation of murder for hire,

1           (iii) heinous battery,  
2           (iv) aggravated battery of a senior citizen,  
3           (v) criminal sexual assault,  
4           (vi) a violation of subsection (g) of Section 5 of the  
5 Cannabis Control Act,  
6           (vii) cannabis trafficking,  
7           (viii) a violation of subsection (a) of Section 401 of  
8 the Illinois Controlled Substances Act,  
9           (ix) controlled substance trafficking involving a  
10 Class X felony amount of controlled substance under Section  
11 401 of the Illinois Controlled Substances Act,  
12           (x) calculated criminal drug conspiracy,  
13           (xi) streetgang criminal drug conspiracy, or  
14           (xii) a violation of the Methamphetamine Control and  
15 Community Protection Act.  
16 (Source: P.A. 94-556, eff. 9-11-05.)

17           Section 85. The Code of Criminal Procedure of 1963 is  
18 amended by changing Sections 104-25 and 111-3 as follows:

19           (725 ILCS 5/104-25) (from Ch. 38, par. 104-25)  
20           Sec. 104-25. Discharge hearing.  
21           (a) As provided for in paragraph (a) of Section 104-23 and  
22 subparagraph (1) of paragraph (b) of Section 104-23 a hearing  
23 to determine the sufficiency of the evidence shall be held.  
24 Such hearing shall be conducted by the court without a jury.

1 The State and the defendant may introduce evidence relevant to  
2 the question of defendant's guilt of the crime charged.

3 The court may admit hearsay or affidavit evidence on  
4 secondary matters such as testimony to establish the chain of  
5 possession of physical evidence, laboratory reports,  
6 authentication of transcripts taken by official reporters,  
7 court and business records, and public documents.

8 (b) If the evidence does not prove the defendant guilty  
9 beyond a reasonable doubt, the court shall enter a judgment of  
10 acquittal; however nothing herein shall prevent the State from  
11 requesting the court to commit the defendant to the Department  
12 of Human Services under the provisions of the Mental Health and  
13 Developmental Disabilities Code.

14 (c) If the defendant is found not guilty by reason of  
15 insanity, the court shall enter a judgment of acquittal and the  
16 proceedings after acquittal by reason of insanity under Section  
17 5-2-4 of the Unified Code of Corrections shall apply.

18 (d) If the discharge hearing does not result in an  
19 acquittal of the charge the defendant may be remanded for  
20 further treatment and the one year time limit set forth in  
21 Section 104-23 shall be extended as follows:

22 (1) If the most serious charge upon which the State  
23 sustained its burden of proof was a Class 1 or Class X  
24 felony, the treatment period may be extended up to a  
25 maximum treatment period of 2 years; if a Class 2, 3, or 4  
26 felony, the treatment period may be extended up to a

1 maximum of 15 months;

2 (2) If the State sustained its burden of proof on a  
3 charge of first degree murder, the treatment period may be  
4 extended up to a maximum treatment period of 5 years.

5 (e) Transcripts of testimony taken at a discharge hearing  
6 may be admitted in evidence at a subsequent trial of the case,  
7 subject to the rules of evidence, if the witness who gave such  
8 testimony is legally unavailable at the time of the subsequent  
9 trial.

10 (f) If the court fails to enter an order of acquittal the  
11 defendant may appeal from such judgment in the same manner  
12 provided for an appeal from a conviction in a criminal case.

13 (g) At the expiration of an extended period of treatment  
14 ordered pursuant to this Section:

15 (1) Upon a finding that the defendant is fit or can be  
16 rendered fit consistent with Section 104-22, the court may  
17 proceed with trial.

18 (2) If the defendant continues to be unfit to stand  
19 trial, the court shall determine whether he or she is  
20 subject to involuntary admission under the Mental Health  
21 and Developmental Disabilities Code or constitutes a  
22 serious threat to the public safety. If so found, the  
23 defendant shall be remanded to the Department of Human  
24 Services for further treatment and shall be treated in the  
25 same manner as a civilly committed patient for all  
26 purposes, except that the original court having

1 jurisdiction over the defendant shall be required to  
2 approve any conditional release or discharge of the  
3 defendant, for the period of commitment equal to the  
4 maximum sentence to which the defendant would have been  
5 subject had he or she been convicted in a criminal  
6 proceeding. During this period of commitment, the original  
7 court having jurisdiction over the defendant shall hold  
8 hearings under clause (i) of this paragraph (2). However,  
9 if the defendant is remanded to the Department of Human  
10 Services, the defendant shall be placed in a secure setting  
11 unless the court determines that there are compelling  
12 reasons why such placement is not necessary.

13 If the defendant does not have a current treatment  
14 plan, then within 3 days of admission under this  
15 subdivision (g)(2), a treatment plan shall be prepared for  
16 each defendant and entered into his or her record. The plan  
17 shall include (i) an assessment of the defendant's  
18 treatment needs, (ii) a description of the services  
19 recommended for treatment, (iii) the goals of each type of  
20 element of service, (iv) an anticipated timetable for the  
21 accomplishment of the goals, and (v) a designation of the  
22 qualified professional responsible for the implementation  
23 of the plan. The plan shall be reviewed and updated as the  
24 clinical condition warrants, but not less than every 30  
25 days.

26 Every 90 days after the initial admission under this

1 subdivision (g)(2), the facility director shall file a  
2 typed treatment plan report with the original court having  
3 jurisdiction over the defendant. The report shall include  
4 an opinion as to whether the defendant is fit to stand  
5 trial and whether the defendant is currently subject to  
6 involuntary admission, in need of mental health services on  
7 an inpatient basis, or in need of mental health services on  
8 an outpatient basis. The report shall also summarize the  
9 basis for those findings and provide a current summary of  
10 the 5 items required in a treatment plan. A copy of the  
11 report shall be forwarded to the clerk of the court, the  
12 State's Attorney, and the defendant's attorney if the  
13 defendant is represented by counsel.

14 The court on its own motion may order a hearing to  
15 review the treatment plan. The defendant or the State's  
16 Attorney may request a treatment plan review every 90 days  
17 and the court shall review the current treatment plan to  
18 determine whether the plan complies with the requirements  
19 of this Section. The court may order an independent  
20 examination on its own initiative and shall order such an  
21 evaluation if either the recipient or the State's Attorney  
22 so requests and has demonstrated to the court that the plan  
23 cannot be effectively reviewed by the court without such an  
24 examination. Under no circumstances shall the court be  
25 required to order an independent examination pursuant to  
26 this Section more than once each year. The examination



1        shall be conducted by a psychiatrist or clinical  
2        psychologist as defined in Section 1-103 of the Mental  
3        Health and Developmental Disabilities Code who is not in  
4        the employ of the Department of Human Services.

5        If, during the period within which the defendant is  
6        confined in a secure setting, the court enters an order  
7        that requires the defendant to appear, the court shall  
8        timely transmit a copy of the order or writ to the director  
9        of the particular Department of Human Services facility  
10       where the defendant resides authorizing the transportation  
11       of the defendant to the court for the purpose of the  
12       hearing.

13       (i) 180 days after a defendant is remanded to the  
14       Department of Human Services, under paragraph (2), and  
15       every 180 days thereafter for so long as the defendant  
16       is confined under the order entered thereunder, the  
17       court shall set a hearing and shall direct that notice  
18       of the time and place of the hearing be served upon the  
19       defendant, the facility director, the State's  
20       Attorney, and the defendant's attorney. If requested  
21       by either the State or the defense or if the court  
22       determines that it is appropriate, an impartial  
23       examination of the defendant by a psychiatrist or  
24       clinical psychologist as defined in Section 1-103 of  
25       the Mental Health and Developmental Disabilities Code  
26       who is not in the employ of the Department of Human

1 Services shall be ordered, and the report considered at  
2 the time of the hearing. If the defendant is not  
3 currently represented by counsel the court shall  
4 appoint the public defender to represent the defendant  
5 at the hearing. The court shall make a finding as to  
6 whether the defendant is:

7 (A) subject to involuntary admission; or

8 (B) in need of mental health services in the  
9 form of inpatient care; or

10 (C) in need of mental health services but not  
11 subject to involuntary admission nor inpatient  
12 care.

13 The findings of the court shall be established by clear  
14 and convincing evidence and the burden of proof and the  
15 burden of going forward with the evidence shall rest  
16 with the State's Attorney. Upon finding by the court,  
17 the court shall enter its findings and an appropriate  
18 order.

19 (ii) The terms "subject to involuntary admission",  
20 "in need of mental health services in the form of  
21 inpatient care" and "in need of mental health services  
22 but not subject to involuntary admission nor inpatient  
23 care" shall have the meanings ascribed to them in  
24 clause (d)(3) of Section 5-2-4 of the Unified Code of  
25 Corrections.

26 (3) If the defendant is not committed pursuant to this

1 Section, he or she shall be released.

2 (4) In no event may the treatment period be extended to  
3 exceed the maximum sentence to which a defendant would have  
4 been subject had he or she been convicted in a criminal  
5 proceeding. For purposes of this Section, the maximum  
6 sentence shall be determined by Section 5-8-1 (730 ILCS  
7 5/5-8-1) or Article 4.5 of Chapter V of the "Unified Code  
8 of Corrections", excluding any sentence of natural life.

9 (Source: P.A. 91-536, eff. 1-1-00.)

10 (725 ILCS 5/111-3) (from Ch. 38, par. 111-3)

11 Sec. 111-3. Form of charge.

12 (a) A charge shall be in writing and allege the commission  
13 of an offense by:

14 (1) Stating the name of the offense;

15 (2) Citing the statutory provision alleged to have been  
16 violated;

17 (3) Setting forth the nature and elements of the  
18 offense charged;

19 (4) Stating the date and county of the offense as  
20 definitely as can be done; and

21 (5) Stating the name of the accused, if known, and if  
22 not known, designate the accused by any name or description  
23 by which he can be identified with reasonable certainty.

24 (b) An indictment shall be signed by the foreman of the  
25 Grand Jury and an information shall be signed by the State's

1 Attorney and sworn to by him or another. A complaint shall be  
2 sworn to and signed by the complainant; Provided, however, that  
3 when a citation is issued on a Uniform Traffic Ticket or  
4 Uniform Conservation Ticket (in a form prescribed by the  
5 Conference of Chief Circuit Judges and filed with the Supreme  
6 Court), the copy of such Uniform Ticket which is filed with the  
7 circuit court constitutes a complaint to which the defendant  
8 may plead, unless he specifically requests that a verified  
9 complaint be filed.

10 (c) When the State seeks an enhanced sentence because of a  
11 prior conviction, the charge shall also state the intention to  
12 seek an enhanced sentence and shall state such prior conviction  
13 so as to give notice to the defendant. However, the fact of  
14 such prior conviction and the State's intention to seek an  
15 enhanced sentence are not elements of the offense and may not  
16 be disclosed to the jury during trial unless otherwise  
17 permitted by issues properly raised during such trial. For the  
18 purposes of this Section, "enhanced sentence" means a sentence  
19 which is increased by a prior conviction from one  
20 classification of offense to another higher level  
21 classification of offense set forth in Section 5-4.5-10 ~~5-5-1~~  
22 of the ~~"Unified Code of Corrections (730 ILCS 5/5-4.5-10)"~~,  
23 ~~approved July 26, 1972, as amended~~; it does not include an  
24 increase in the sentence applied within the same level of  
25 classification of offense.

26 (c-5) Notwithstanding any other provision of law, in all

1 cases in which the imposition of the death penalty is not a  
2 possibility, if an alleged fact (other than the fact of a prior  
3 conviction) is not an element of an offense but is sought to be  
4 used to increase the range of penalties for the offense beyond  
5 the statutory maximum that could otherwise be imposed for the  
6 offense, the alleged fact must be included in the charging  
7 instrument or otherwise provided to the defendant through a  
8 written notification before trial, submitted to a trier of fact  
9 as an aggravating factor, and proved beyond a reasonable doubt.  
10 Failure to prove the fact beyond a reasonable doubt is not a  
11 bar to a conviction for commission of the offense, but is a bar  
12 to increasing, based on that fact, the range of penalties for  
13 the offense beyond the statutory maximum that could otherwise  
14 be imposed for that offense. Nothing in this subsection (c-5)  
15 requires the imposition of a sentence that increases the range  
16 of penalties for the offense beyond the statutory maximum that  
17 could otherwise be imposed for the offense if the imposition of  
18 that sentence is not required by law.

19 (d) At any time prior to trial, the State on motion shall  
20 be permitted to amend the charge, whether brought by  
21 indictment, information or complaint, to make the charge comply  
22 with subsection (c) or (c-5) of this Section. Nothing in  
23 Section 103-5 of this Code precludes such an amendment or a  
24 written notification made in accordance with subsection (c-5)  
25 of this Section.

26 (e) The provisions of subsection (a) of Section 5-4.5-95 of

1 the Unified Code of Corrections (730 ILCS 5/5-4.5-95) Article  
2 33B of the Criminal Code of 1961, as amended, shall not be  
3 affected by this Section.

4 (Source: P.A. 91-953, eff. 2-23-01.)

5 Section 90. The Unified Code of Corrections is amended by  
6 changing Sections 3-3-2.1, 5-1-17, 5-2-6, 5-5-3, 5-5-3.2,  
7 5-5-4.3, 5-6-2, 5-6-4, 5-6-4.1, 5-7-8, 5-8-1, 5-8-2, 5-8-4, and  
8 5-9-1 as follows:

9 (730 ILCS 5/3-3-2.1) (from Ch. 38, par. 1003-3-2.1)

10 Sec. 3-3-2.1. Prisoner Review Board - Release Date. (a)  
11 Except as provided in subsection (b), the Prisoner Review Board  
12 shall, no later than 7 days following a prisoner's next parole  
13 hearing after the effective date of this Amendatory Act of  
14 1977, provide each prisoner sentenced under the law in effect  
15 prior to the effective date of this amendatory Act of 1977,  
16 with a fixed release date.

17 (b) No release date under this Section shall be set for any  
18 person sentenced to an indeterminate sentence under the law in  
19 effect prior to the effective date of this amendatory Act of  
20 1977 in which the minimum term of such sentence is 20 years or  
21 more.

22 (c) The Prisoner Review Board shall notify each eligible  
23 offender of his or her release date in a form substantially as  
24 follows:

Date of Notice

"To (Name of offender):

Under a recent change in the law you are provided with this choice:

(1) You may remain under your present indeterminate sentence and continue to be eligible for parole; or (2) you may waive your right to parole and accept the release date which has been set for you. From this release date will be deducted any good conduct credit you may earn.

If you accept the release date established by the Board, you will no longer be eligible for parole.

Your release date from prison has been set for: (release date) , subject to a term of mandatory supervised release as provided by law.

If you accumulate the maximum amount of good conduct credit as allowed by law recently enacted, you can be released on: , subject to a term of mandatory supervised release as provided by law.

Should you choose not to accept the release date, your next parole hearing will be: .

The Board has based its determination of your release date on the following:

(1) The material that normally would be examined in connection with your parole hearing, as set forth in paragraph (d) of Section 3-3-4 of the Unified Code of Corrections:

(2) the intent of the court in imposing sentence on you;

1           (3) the present schedule of sentences for similar offenses  
2 provided by Articles 4.5 and 5 of Chapter V ~~Sections 5-8-1 and~~  
3 ~~5-8-2~~ of the Unified Code of Corrections, as amended;

4           (4) the factors in mitigation and aggravation provided by  
5 Sections 5-5-3.1 and 5-5-3.2 of the Unified Code of  
6 Corrections, as amended;

7           (5) The rate of accumulating good conduct credits provided  
8 by Section 3-6-3 of the Unified Code of Corrections, as  
9 amended;

10          (6) your behavior since commitment.

11          You now have 60 days in which to decide whether to remain  
12 under your indeterminate sentence and continue to be eligible  
13 for parole or waive your right to parole and accept the release  
14 date established for you by the Board. If you do nothing within  
15 60 days, you will remain under the parole system.

16          If you accept the release date, you may accumulate good  
17 conduct credit at the maximum rate provided under the law  
18 recently enacted.

19          If you feel that the release date set for you is unfair or  
20 is not based on complete information required to be considered  
21 by the Board, you may request that the Board reconsider the  
22 date. In your request you must set forth specific reasons why  
23 you feel the Board's release date is unfair and you may submit  
24 relevant material in support of your request.

25          The Department of Corrections is obligated to assist you in  
26 that effort, if you ask it to do so.



1       The Board will notify you within 60 days whether or not it  
2 will reconsider its decision. The Board's decision with respect  
3 to reconsidering your release date is final and cannot be  
4 appealed to any court.

5       If the Board decides not to reconsider your case you will  
6 have 60 days in which to decide whether to accept the release  
7 date and waive your right to parole or to continue under the  
8 parole system. If you do nothing within 60 days after you  
9 receive notification of the Board's decision you will remain  
10 under the parole system.

11       If the Board decides to reconsider its decision with  
12 respect to your release date, the Board will schedule a date  
13 for reconsideration as soon as practicable, but no later than  
14 60 days from the date it receives your request, and give you at  
15 least 30 days notice. You may submit material to the Board  
16 which you believe will be helpful in deciding a proper date for  
17 your release. The Department of Corrections is obligated to  
18 assist you in that effort, if you ask it to do so.

19       Neither you nor your lawyer has the right to be present on  
20 the date of reconsideration, nor the right to call witnesses.  
21 However, the Board may ask you or your lawyer to appear or may  
22 ask to hear witnesses. The Board will base its determination on  
23 the same data on which it made its earlier determination, plus  
24 any new information which may be available to it.

25       When the Board has made its decision you will be informed  
26 of the release date. In no event will it be longer than the

1 release date originally determined. From this date you may  
2 continue to accumulate good conduct credits at the maximum  
3 rate. You will not be able to appeal the Board's decision to a  
4 court.

5 Following the Board's reconsideration and upon being  
6 notified of your release date you will have 60 days in which to  
7 decide whether to accept the release date and waive your right  
8 to parole or to continue under the parole system. If you do  
9 nothing within 60 days after notification of the Board's  
10 decision you will remain under the parole system."

11 (d) The Board shall provide each eligible offender with a  
12 form substantially as follows:

13 "I (name of offender) am fully aware of my right to choose  
14 between parole eligibility and a fixed release date. I know  
15 that if I accept the release date established, I will give up  
16 my right to seek parole. I have read and understood the  
17 Prisoner Review Board's letter, and I know how and under what  
18 circumstances the Board has set my release date. I know that I  
19 will be released on that date and will be released earlier if I  
20 accumulate good conduct credit. I know that the date set by the  
21 Board is final, and can't be appealed to a court.

22 Fully aware of all the implications, I expressly and  
23 knowingly waive my right to seek parole and accept the release  
24 date as established by the Prisoner Review Board."

25 (e) The Board shall use the following information and  
26 standards in establishing a release date for each eligible

1 offender who requests that a date be set:

2 (1) Such information as would be considered in a parole  
3 hearing under Section 3-3-4 of this Code;

4 (2) The intent of the court in imposing the offender's  
5 sentence;

6 (3) The present schedule for similar offenses provided by  
7 Articles 4.5 and 5 of Chapter V ~~Sections 5-8-1 and 5-8-2~~ of  
8 this Code;

9 (4) Factors in aggravation and mitigation of sentence as  
10 provided in Sections 5-5-3.1 and 5-5-3.2 of this Code;

11 (5) The rate of accumulating good conduct credits provided  
12 by Section 3-6-3 of this Code;

13 (6) The offender's behavior since commitment to the  
14 Department.

15 (f) After the release date is set by the Board, the  
16 offender can accumulate good conduct credits in accordance with  
17 Section 3-6-3 of this Code.

18 (g) The release date established by the Board shall not be  
19 sooner than the earliest date that the offender would have been  
20 eligible for release under the sentence imposed on him by the  
21 court, less time credit previously earned for good behavior,  
22 nor shall it be later than the latest date at which the  
23 offender would have been eligible for release under such  
24 sentence, less time credit previously earned for good behavior.

25 (h) (1) Except as provided in subsection (b), each prisoner  
26 appearing at his next parole hearing subsequent to the

1 effective date of the amendatory Act of 1977, shall be notified  
2 within 7 days of the hearing that he will either be released on  
3 parole or that a release date has been set by the Board. The  
4 notice and waiver form provided for in subsections (c) and (d)  
5 shall be presented to eligible prisoners no later than 7 days  
6 following their parole hearing. A written statement of the  
7 basis for the decision with regard to the release date set  
8 shall be given to such prisoners no later than 14 days  
9 following the parole hearing.

10 (2) Each prisoner upon notification of his release date  
11 shall have 60 days to choose whether to remain under the parole  
12 system or to accept the release date established by the Board.  
13 No release date shall be effective unless the prisoner waives  
14 his right to parole in writing. If no choice is made by such  
15 prisoner within 60 days from the date of his notification of a  
16 release date, such prisoner shall remain under the parole  
17 system.

18 (3) Within the 60 day period as provided in paragraph (2)  
19 of this subsection, a prisoner may request that the Board  
20 reconsider its decision with regard to such prisoner's release  
21 date. No later than 60 days following receipt of such request  
22 for reconsideration, the Board shall notify the prisoner as to  
23 whether or not it will reconsider such prisoner's release date.  
24 No court shall have jurisdiction to review the Board's  
25 decision. No prisoner shall be entitled to more than one  
26 request for reconsideration of his release date.

1           (A) If the Board decides not to reconsider the release  
2 date, the prisoner shall have 60 days to choose whether to  
3 remain under the parole system or to accept the release date  
4 established by the Board. No release date shall be effective  
5 unless the prisoner waives his right to parole in writing. If  
6 no choice is made by such prisoner within 60 days from the date  
7 of the notification by the Board refusing to reconsider his  
8 release date, such prisoner shall remain under the parole  
9 system.

10          (B) If the Board decides to reconsider its decision with  
11 respect to such release date, the Board shall schedule a date  
12 for reconsideration as soon as practicable, but no later than  
13 60 days from the date of the prisoner's request, and give such  
14 prisoner at least 30 days notice. Such prisoner may submit any  
15 relevant material to the Board which would aid in ascertaining  
16 a proper release date. The Department of Corrections shall  
17 assist any such prisoner if asked to do so.

18          Neither the prisoner nor his lawyer has the right to be  
19 present on the date of reconsideration, nor the right to call  
20 witnesses. However, the Board may ask such prisoner or his or  
21 her lawyer to appear or may ask to hear witnesses. The Board  
22 shall base its determination on the factors specified in  
23 subsection (e), plus any new information which may be available  
24 to it.

25          (C) When the Board has made its decision, the prisoner  
26 shall be informed of the release date as provided for in

1 subsection (c) no later than 7 days following the  
2 reconsideration. In no event shall such release date be longer  
3 than the release date originally determined. The decision of  
4 the Board is final. No court shall have jurisdiction to review  
5 the Board's decision.

6 Following the Board's reconsideration and its notification  
7 to the prisoner of his or her release date, such prisoner shall  
8 have 60 days from the date of such notice in which to decide  
9 whether to accept the release date and waive his or her right  
10 to parole or to continue under the parole system. If such  
11 prisoner does nothing within 60 days after notification of the  
12 Board's decision, he or she shall remain under the parole  
13 system.

14 (Source: P.A. 80-1387.)

15 (730 ILCS 5/5-1-17) (from Ch. 38, par. 1005-1-17)

16 Sec. 5-1-17. Petty Offense.

17 "Petty offense" means any offense for which a sentence of  
18 imprisonment is not an authorized disposition ~~to a fine only is~~  
19 ~~provided.~~

20 (Source: P.A. 77-2097.)

21 (730 ILCS 5/5-2-6) (from Ch. 38, par. 1005-2-6)

22 Sec. 5-2-6. Sentencing and Treatment of Defendant Found  
23 Guilty but Mentally Ill.

24 (a) After a plea or verdict of guilty but mentally ill

1 under Sections 115-2, 115-3 or 115-4 of the Code of Criminal  
2 Procedure of 1963, the court shall order a presentence  
3 investigation and report pursuant to Sections 5-3-1 and 5-3-2  
4 of this Act, and shall set a date for a sentencing hearing. The  
5 court may impose any sentence upon the defendant which could be  
6 imposed pursuant to law upon a defendant who had been convicted  
7 of the same offense without a finding of mental illness.

8 (b) If the court imposes a sentence of imprisonment upon a  
9 defendant who has been found guilty but mentally ill, the  
10 defendant shall be committed to the Department of Corrections,  
11 which shall cause periodic inquiry and examination to be made  
12 concerning the nature, extent, continuance, and treatment of  
13 the defendant's mental illness. The Department of Corrections  
14 shall provide such psychiatric, psychological, or other  
15 counseling and treatment for the defendant as it determines  
16 necessary.

17 (c) The Department of Corrections may transfer the  
18 defendant's custody to the Department of Human Services in  
19 accordance with the provisions of Section 3-8-5 of this Act.

20 (d) (1) The Department of Human Services shall return to  
21 the Department of Corrections any person committed to it  
22 pursuant to this Section whose sentence has not expired and  
23 whom the Department of Human Services deems no longer requires  
24 hospitalization for mental treatment, mental retardation, or  
25 addiction.

26 (2) The Department of Corrections shall notify the

1 Secretary of Human Services of the expiration of the sentence  
2 of any person transferred to the Department of Human Services  
3 under this Section. If the Department of Human Services  
4 determines that any such person requires further  
5 hospitalization, it shall file an appropriate petition for  
6 involuntary commitment pursuant to the Mental Health and  
7 Developmental Disabilities Code.

8 (e) (1) All persons found guilty but mentally ill, whether  
9 by plea or by verdict, who are placed on probation or sentenced  
10 to a term of periodic imprisonment or a period of conditional  
11 discharge shall be required to submit to a course of mental  
12 treatment prescribed by the sentencing court.

13 (2) The course of treatment prescribed by the court shall  
14 reasonably assure the defendant's satisfactory progress in  
15 treatment or habilitation and for the safety of the defendant  
16 and others. The court shall consider terms, conditions and  
17 supervision which may include, but need not be limited to,  
18 notification and discharge of the person to the custody of his  
19 family, community adjustment programs, periodic checks with  
20 legal authorities and outpatient care and utilization of local  
21 mental health or developmental disabilities facilities.

22 (3) Failure to continue treatment, except by agreement with  
23 the treating person or agency and the court, shall be a basis  
24 for the institution of probation revocation proceedings.

25 (4) The period of probation shall be in accordance with  
26 Article 4.5 of Chapter V of this Code ~~Section 5-6-2 of this Act~~



1 and shall not be shortened without receipt and consideration of  
2 such psychiatric or psychological report or reports as the  
3 court may require.

4 (Source: P.A. 89-507, eff. 7-1-97.)

5 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

6 (Text of Section after amendment by P.A. 94-1035)

7 Sec. 5-5-3. Disposition.

8 (a) (Blank.) ~~Except as provided in Section 11-501 of the~~  
9 ~~Illinois Vehicle Code, every person convicted of an offense~~  
10 ~~shall be sentenced as provided in this Section.~~

11 (b) (Blank.) ~~The following options shall be appropriate~~  
12 ~~dispositions, alone or in combination, for all felonies and~~  
13 ~~misdemeanors other than those identified in subsection (c) of~~  
14 ~~this Section:~~

15 ~~(1) A period of probation.~~

16 ~~(2) A term of periodic imprisonment.~~

17 ~~(3) A term of conditional discharge.~~

18 ~~(4) A term of imprisonment.~~

19 ~~(5) An order directing the offender to clean up and~~  
20 ~~repair the damage, if the offender was convicted under~~  
21 ~~paragraph (h) of Section 21-1 of the Criminal Code of 1961~~  
22 ~~(now repealed).~~

23 ~~(6) A fine.~~

24 ~~(7) An order directing the offender to make restitution~~  
25 ~~to the victim under Section 5-5-6 of this Code.~~

1           ~~(8) A sentence of participation in a county impact~~  
2           ~~incarceration program under Section 5-8-1.2 of this Code.~~

3           ~~(9) A term of imprisonment in combination with a term~~  
4           ~~of probation when the offender has been admitted into a~~  
5           ~~drug court program under Section 20 of the Drug Court~~  
6           ~~Treatment Act.~~

7           ~~Neither a fine nor restitution shall be the sole~~  
8           ~~disposition for a felony and either or both may be imposed only~~  
9           ~~in conjunction with another disposition.~~

10          (c) (1) (Blank.) ~~When a defendant is found guilty of first~~  
11          ~~degree murder the State may either seek a sentence of~~  
12          ~~imprisonment under Section 5-8-1 of this Code, or where~~  
13          ~~appropriate seek a sentence of death under Section 9-1 of~~  
14          ~~the Criminal Code of 1961.~~

15          (2) A period of probation, a term of periodic  
16          imprisonment or conditional discharge shall not be imposed  
17          for the following offenses. The court shall sentence the  
18          offender to not less than the minimum term of imprisonment  
19          set forth in this Code for the following offenses, and may  
20          order a fine or restitution or both in conjunction with  
21          such term of imprisonment:

22                (A) First degree murder where the death penalty is  
23                not imposed.

24                (B) Attempted first degree murder.

25                (C) A Class X felony.

26                (D) A violation of Section 401.1 or 407 of the

1 Illinois Controlled Substances Act, or a violation of  
2 subdivision (c) (1) or (c) (2) of Section 401 of that Act  
3 which relates to more than 5 grams of a substance  
4 containing heroin or cocaine or an analog thereof.

5 (E) A violation of Section 5.1 or 9 of the Cannabis  
6 Control Act.

7 (F) A Class 2 or greater felony if the offender had  
8 been convicted of a Class 2 or greater felony,  
9 including any state or federal conviction for an  
10 offense that contained, at the time it was committed,  
11 the same elements as an offense now (the date of the  
12 offense committed after the prior Class 2 or greater  
13 felony) classified as a Class 2 or greater felony,  
14 within 10 years of the date on which the offender  
15 committed the offense for which he or she is being  
16 sentenced, except as otherwise provided in Section  
17 40-10 of the Alcoholism and Other Drug Abuse and  
18 Dependency Act.

19 (F-5) A violation of Section 24-1, 24-1.1, or  
20 24-1.6 of the Criminal Code of 1961 for which  
21 imprisonment is prescribed in those Sections.

22 (G) Residential burglary, except as otherwise  
23 provided in Section 40-10 of the Alcoholism and Other  
24 Drug Abuse and Dependency Act.

25 (H) Criminal sexual assault.

26 (I) Aggravated battery of a senior citizen.

1 (J) A forcible felony if the offense was related to  
2 the activities of an organized gang.

3 Before July 1, 1994, for the purposes of this  
4 paragraph, "organized gang" means an association of 5  
5 or more persons, with an established hierarchy, that  
6 encourages members of the association to perpetrate  
7 crimes or provides support to the members of the  
8 association who do commit crimes.

9 Beginning July 1, 1994, for the purposes of this  
10 paragraph, "organized gang" has the meaning ascribed  
11 to it in Section 10 of the Illinois Streetgang  
12 Terrorism Omnibus Prevention Act.

13 (K) Vehicular hijacking.

14 (L) A second or subsequent conviction for the  
15 offense of hate crime when the underlying offense upon  
16 which the hate crime is based is felony aggravated  
17 assault or felony mob action.

18 (M) A second or subsequent conviction for the  
19 offense of institutional vandalism if the damage to the  
20 property exceeds \$300.

21 (N) A Class 3 felony violation of paragraph (1) of  
22 subsection (a) of Section 2 of the Firearm Owners  
23 Identification Card Act.

24 (O) A violation of Section 12-6.1 of the Criminal  
25 Code of 1961.

26 (P) A violation of paragraph (1), (2), (3), (4),

1 (5), or (7) of subsection (a) of Section 11-20.1 of the  
2 Criminal Code of 1961.

3 (Q) A violation of Section 20-1.2 or 20-1.3 of the  
4 Criminal Code of 1961.

5 (R) A violation of Section 24-3A of the Criminal  
6 Code of 1961.

7 (S) (Blank).

8 (T) A second or subsequent violation of the  
9 Methamphetamine Control and Community Protection Act.

10 (3) (Blank).

11 (4) A minimum term of imprisonment of not less than 10  
12 consecutive days or 30 days of community service shall be  
13 imposed for a violation of paragraph (c) of Section 6-303  
14 of the Illinois Vehicle Code.

15 (4.1) (Blank).

16 (4.2) Except as provided in paragraph (4.3) of this  
17 subsection (c), a minimum of 100 hours of community service  
18 shall be imposed for a second violation of Section 6-303 of  
19 the Illinois Vehicle Code.

20 (4.3) A minimum term of imprisonment of 30 days or 300  
21 hours of community service, as determined by the court,  
22 shall be imposed for a second violation of subsection (c)  
23 of Section 6-303 of the Illinois Vehicle Code.

24 (4.4) Except as provided in paragraph (4.5) and  
25 paragraph (4.6) of this subsection (c), a minimum term of  
26 imprisonment of 30 days or 300 hours of community service,

1 as determined by the court, shall be imposed for a third or  
2 subsequent violation of Section 6-303 of the Illinois  
3 Vehicle Code.

4 (4.5) A minimum term of imprisonment of 30 days shall  
5 be imposed for a third violation of subsection (c) of  
6 Section 6-303 of the Illinois Vehicle Code.

7 (4.6) A minimum term of imprisonment of 180 days shall  
8 be imposed for a fourth or subsequent violation of  
9 subsection (c) of Section 6-303 of the Illinois Vehicle  
10 Code.

11 (5) The court may sentence ~~an offender convicted of a~~  
12 ~~business offense or a petty offense or~~ a corporation or  
13 unincorporated association convicted of any offense to:

14 (A) a period of conditional discharge;

15 (B) a fine;

16 (C) make restitution to the victim under Section  
17 5-5-6 of this Code.

18 (5.1) In addition to any other penalties imposed ~~under~~  
19 ~~paragraph (5) of this subsection (c)~~, and except as  
20 provided in paragraph (5.2) or (5.3), a person convicted of  
21 violating subsection (c) of Section 11-907 of the Illinois  
22 Vehicle Code shall have his or her driver's license,  
23 permit, or privileges suspended for at least 90 days but  
24 not more than one year, if the violation resulted in damage  
25 to the property of another person.

26 (5.2) In addition to any other penalties imposed ~~under~~

1 ~~paragraph (5) of this subsection (e)~~, and except as  
2 provided in paragraph (5.3), a person convicted of  
3 violating subsection (c) of Section 11-907 of the Illinois  
4 Vehicle Code shall have his or her driver's license,  
5 permit, or privileges suspended for at least 180 days but  
6 not more than 2 years, if the violation resulted in injury  
7 to another person.

8 (5.3) In addition to any other penalties imposed ~~under~~  
9 ~~paragraph (5) of this subsection (e)~~, a person convicted of  
10 violating subsection (c) of Section 11-907 of the Illinois  
11 Vehicle Code shall have his or her driver's license,  
12 permit, or privileges suspended for 2 years, if the  
13 violation resulted in the death of another person.

14 (5.4) In addition to any other penalties imposed ~~under~~  
15 ~~paragraph (5) of this subsection (e)~~, a person convicted of  
16 violating Section 3-707 of the Illinois Vehicle Code shall  
17 have his or her driver's license, permit, or privileges  
18 suspended for 3 months and until he or she has paid a  
19 reinstatement fee of \$100.

20 (5.5) In addition to any other penalties imposed ~~under~~  
21 ~~paragraph (5) of this subsection (e)~~, a person convicted of  
22 violating Section 3-707 of the Illinois Vehicle Code during  
23 a period in which his or her driver's license, permit, or  
24 privileges were suspended for a previous violation of that  
25 Section shall have his or her driver's license, permit, or  
26 privileges suspended for an additional 6 months after the

1 expiration of the original 3-month suspension and until he  
2 or she has paid a reinstatement fee of \$100.

3 (6) (Blank.) ~~In no case shall an offender be eligible~~  
4 ~~for a disposition of probation or conditional discharge for~~  
5 ~~a Class 1 felony committed while he was serving a term of~~  
6 ~~probation or conditional discharge for a felony.~~

7 (7) (Blank.) ~~When a defendant is adjudged a habitual~~  
8 ~~criminal under Article 33B of the Criminal Code of 1961,~~  
9 ~~the court shall sentence the defendant to a term of natural~~  
10 ~~life imprisonment.~~

11 (8) (Blank.) ~~When a defendant, over the age of 21~~  
12 ~~years, is convicted of a Class 1 or Class 2 felony, after~~  
13 ~~having twice been convicted in any state or federal court~~  
14 ~~of an offense that contains the same elements as an offense~~  
15 ~~now classified in Illinois as a Class 2 or greater Class~~  
16 ~~felony and such charges are separately brought and tried~~  
17 ~~and arise out of different series of acts, such defendant~~  
18 ~~shall be sentenced as a Class X offender. This paragraph~~  
19 ~~shall not apply unless (1) the first felony was committed~~  
20 ~~after the effective date of this amendatory Act of 1977;~~  
21 ~~and (2) the second felony was committed after conviction on~~  
22 ~~the first; and (3) the third felony was committed after~~  
23 ~~conviction on the second. A person sentenced as a Class X~~  
24 ~~offender under this paragraph is not eligible to apply for~~  
25 ~~treatment as a condition of probation as provided by~~  
26 ~~Section 40-10 of the Alcoholism and Other Drug Abuse and~~



1       ~~Dependency Act.~~

2           (9) A defendant convicted of a second or subsequent  
3 offense of ritualized abuse of a child may be sentenced to  
4 a term of natural life imprisonment.

5           (10) (Blank).

6           (11) The court shall impose a minimum fine of \$1,000  
7 for a first offense and \$2,000 for a second or subsequent  
8 offense upon a person convicted of or placed on supervision  
9 for battery when the individual harmed was a sports  
10 official or coach at any level of competition and the act  
11 causing harm to the sports official or coach occurred  
12 within an athletic facility or within the immediate  
13 vicinity of the athletic facility at which the sports  
14 official or coach was an active participant of the athletic  
15 contest held at the athletic facility. For the purposes of  
16 this paragraph (11), "sports official" means a person at an  
17 athletic contest who enforces the rules of the contest,  
18 such as an umpire or referee; "athletic facility" means an  
19 indoor or outdoor playing field or recreational area where  
20 sports activities are conducted; and "coach" means a person  
21 recognized as a coach by the sanctioning authority that  
22 conducted the sporting event.

23           (12) A person may not receive a disposition of court  
24 supervision for a violation of Section 5-16 of the Boat  
25 Registration and Safety Act if that person has previously  
26 received a disposition of court supervision for a violation

1 of that Section.

2 (d) In any case in which a sentence originally imposed is  
3 vacated, the case shall be remanded to the trial court. The  
4 trial court shall hold a hearing under Section 5-4-1 of the  
5 Unified Code of Corrections which may include evidence of the  
6 defendant's life, moral character and occupation during the  
7 time since the original sentence was passed. The trial court  
8 shall then impose sentence upon the defendant. The trial court  
9 may impose any sentence which could have been imposed at the  
10 original trial subject to Section 5-5-4 of the Unified Code of  
11 Corrections. If a sentence is vacated on appeal or on  
12 collateral attack due to the failure of the trier of fact at  
13 trial to determine beyond a reasonable doubt the existence of a  
14 fact (other than a prior conviction) necessary to increase the  
15 punishment for the offense beyond the statutory maximum  
16 otherwise applicable, either the defendant may be re-sentenced  
17 to a term within the range otherwise provided or, if the State  
18 files notice of its intention to again seek the extended  
19 sentence, the defendant shall be afforded a new trial.

20 (e) In cases where prosecution for aggravated criminal  
21 sexual abuse under Section 12-16 of the Criminal Code of 1961  
22 results in conviction of a defendant who was a family member of  
23 the victim at the time of the commission of the offense, the  
24 court shall consider the safety and welfare of the victim and  
25 may impose a sentence of probation only where:

26 (1) the court finds (A) or (B) or both are appropriate:

1 (A) the defendant is willing to undergo a court  
2 approved counseling program for a minimum duration of 2  
3 years; or

4 (B) the defendant is willing to participate in a  
5 court approved plan including but not limited to the  
6 defendant's:

7 (i) removal from the household;

8 (ii) restricted contact with the victim;

9 (iii) continued financial support of the  
10 family;

11 (iv) restitution for harm done to the victim;

12 and

13 (v) compliance with any other measures that  
14 the court may deem appropriate; and

15 (2) the court orders the defendant to pay for the  
16 victim's counseling services, to the extent that the court  
17 finds, after considering the defendant's income and  
18 assets, that the defendant is financially capable of paying  
19 for such services, if the victim was under 18 years of age  
20 at the time the offense was committed and requires  
21 counseling as a result of the offense.

22 Probation may be revoked or modified pursuant to Section  
23 5-6-4; except where the court determines at the hearing that  
24 the defendant violated a condition of his or her probation  
25 restricting contact with the victim or other family members or  
26 commits another offense with the victim or other family

1 members, the court shall revoke the defendant's probation and  
2 impose a term of imprisonment.

3 For the purposes of this Section, "family member" and  
4 "victim" shall have the meanings ascribed to them in Section  
5 12-12 of the Criminal Code of 1961.

6 (f) (Blank.) ~~This Article shall not deprive a court in~~  
7 ~~other proceedings to order a forfeiture of property, to suspend~~  
8 ~~or cancel a license, to remove a person from office, or to~~  
9 ~~impose any other civil penalty.~~

10 (g) Whenever a defendant is convicted of an offense under  
11 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,  
12 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16  
13 of the Criminal Code of 1961, the defendant shall undergo  
14 medical testing to determine whether the defendant has any  
15 sexually transmissible disease, including a test for infection  
16 with human immunodeficiency virus (HIV) or any other identified  
17 causative agent of acquired immunodeficiency syndrome (AIDS).  
18 Any such medical test shall be performed only by appropriately  
19 licensed medical practitioners and may include an analysis of  
20 any bodily fluids as well as an examination of the defendant's  
21 person. Except as otherwise provided by law, the results of  
22 such test shall be kept strictly confidential by all medical  
23 personnel involved in the testing and must be personally  
24 delivered in a sealed envelope to the judge of the court in  
25 which the conviction was entered for the judge's inspection in  
26 camera. Acting in accordance with the best interests of the

1 victim and the public, the judge shall have the discretion to  
2 determine to whom, if anyone, the results of the testing may be  
3 revealed. The court shall notify the defendant of the test  
4 results. The court shall also notify the victim if requested by  
5 the victim, and if the victim is under the age of 15 and if  
6 requested by the victim's parents or legal guardian, the court  
7 shall notify the victim's parents or legal guardian of the test  
8 results. The court shall provide information on the  
9 availability of HIV testing and counseling at Department of  
10 Public Health facilities to all parties to whom the results of  
11 the testing are revealed and shall direct the State's Attorney  
12 to provide the information to the victim when possible. A  
13 State's Attorney may petition the court to obtain the results  
14 of any HIV test administered under this Section, and the court  
15 shall grant the disclosure if the State's Attorney shows it is  
16 relevant in order to prosecute a charge of criminal  
17 transmission of HIV under Section 12-16.2 of the Criminal Code  
18 of 1961 against the defendant. The court shall order that the  
19 cost of any such test shall be paid by the county and may be  
20 taxed as costs against the convicted defendant.

21 (g-5) When an inmate is tested for an airborne communicable  
22 disease, as determined by the Illinois Department of Public  
23 Health including but not limited to tuberculosis, the results  
24 of the test shall be personally delivered by the warden or his  
25 or her designee in a sealed envelope to the judge of the court  
26 in which the inmate must appear for the judge's inspection in

1 camera if requested by the judge. Acting in accordance with the  
2 best interests of those in the courtroom, the judge shall have  
3 the discretion to determine what if any precautions need to be  
4 taken to prevent transmission of the disease in the courtroom.

5 (h) Whenever a defendant is convicted of an offense under  
6 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the  
7 defendant shall undergo medical testing to determine whether  
8 the defendant has been exposed to human immunodeficiency virus  
9 (HIV) or any other identified causative agent of acquired  
10 immunodeficiency syndrome (AIDS). Except as otherwise provided  
11 by law, the results of such test shall be kept strictly  
12 confidential by all medical personnel involved in the testing  
13 and must be personally delivered in a sealed envelope to the  
14 judge of the court in which the conviction was entered for the  
15 judge's inspection in camera. Acting in accordance with the  
16 best interests of the public, the judge shall have the  
17 discretion to determine to whom, if anyone, the results of the  
18 testing may be revealed. The court shall notify the defendant  
19 of a positive test showing an infection with the human  
20 immunodeficiency virus (HIV). The court shall provide  
21 information on the availability of HIV testing and counseling  
22 at Department of Public Health facilities to all parties to  
23 whom the results of the testing are revealed and shall direct  
24 the State's Attorney to provide the information to the victim  
25 when possible. A State's Attorney may petition the court to  
26 obtain the results of any HIV test administered under this

1 Section, and the court shall grant the disclosure if the  
2 State's Attorney shows it is relevant in order to prosecute a  
3 charge of criminal transmission of HIV under Section 12-16.2 of  
4 the Criminal Code of 1961 against the defendant. The court  
5 shall order that the cost of any such test shall be paid by the  
6 county and may be taxed as costs against the convicted  
7 defendant.

8 (i) All fines and penalties imposed under this Section for  
9 any violation of Chapters 3, 4, 6, and 11 of the Illinois  
10 Vehicle Code, or a similar provision of a local ordinance, and  
11 any violation of the Child Passenger Protection Act, or a  
12 similar provision of a local ordinance, shall be collected and  
13 disbursed by the circuit clerk as provided under Section 27.5  
14 of the Clerks of Courts Act.

15 (j) In cases when prosecution for any violation of Section  
16 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,  
17 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,  
18 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal  
19 Code of 1961, any violation of the Illinois Controlled  
20 Substances Act, any violation of the Cannabis Control Act, or  
21 any violation of the Methamphetamine Control and Community  
22 Protection Act results in conviction, a disposition of court  
23 supervision, or an order of probation granted under Section 10  
24 of the Cannabis Control Act, Section 410 of the Illinois  
25 Controlled Substance Act, or Section 70 of the Methamphetamine  
26 Control and Community Protection Act of a defendant, the court

1 shall determine whether the defendant is employed by a facility  
2 or center as defined under the Child Care Act of 1969, a public  
3 or private elementary or secondary school, or otherwise works  
4 with children under 18 years of age on a daily basis. When a  
5 defendant is so employed, the court shall order the Clerk of  
6 the Court to send a copy of the judgment of conviction or order  
7 of supervision or probation to the defendant's employer by  
8 certified mail. If the employer of the defendant is a school,  
9 the Clerk of the Court shall direct the mailing of a copy of  
10 the judgment of conviction or order of supervision or probation  
11 to the appropriate regional superintendent of schools. The  
12 regional superintendent of schools shall notify the State Board  
13 of Education of any notification under this subsection.

14 (j-5) A defendant at least 17 years of age who is convicted  
15 of a felony and who has not been previously convicted of a  
16 misdemeanor or felony and who is sentenced to a term of  
17 imprisonment in the Illinois Department of Corrections shall as  
18 a condition of his or her sentence be required by the court to  
19 attend educational courses designed to prepare the defendant  
20 for a high school diploma and to work toward a high school  
21 diploma or to work toward passing the high school level Test of  
22 General Educational Development (GED) or to work toward  
23 completing a vocational training program offered by the  
24 Department of Corrections. If a defendant fails to complete the  
25 educational training required by his or her sentence during the  
26 term of incarceration, the Prisoner Review Board shall, as a



1 condition of mandatory supervised release, require the  
2 defendant, at his or her own expense, to pursue a course of  
3 study toward a high school diploma or passage of the GED test.  
4 The Prisoner Review Board shall revoke the mandatory supervised  
5 release of a defendant who wilfully fails to comply with this  
6 subsection (j-5) upon his or her release from confinement in a  
7 penal institution while serving a mandatory supervised release  
8 term; however, the inability of the defendant after making a  
9 good faith effort to obtain financial aid or pay for the  
10 educational training shall not be deemed a wilful failure to  
11 comply. The Prisoner Review Board shall recommit the defendant  
12 whose mandatory supervised release term has been revoked under  
13 this subsection (j-5) as provided in Section 3-3-9. This  
14 subsection (j-5) does not apply to a defendant who has a high  
15 school diploma or has successfully passed the GED test. This  
16 subsection (j-5) does not apply to a defendant who is  
17 determined by the court to be developmentally disabled or  
18 otherwise mentally incapable of completing the educational or  
19 vocational program.

20 (k) (Blank.) ~~A court may not impose a sentence or~~  
21 ~~disposition for a felony or misdemeanor that requires the~~  
22 ~~defendant to be implanted or injected with or to use any form~~  
23 ~~of birth control.~~

24 (1) (A) Except as provided in paragraph (C) of subsection  
25 (1), whenever a defendant, who is an alien as defined by  
26 the Immigration and Nationality Act, is convicted of any

1       felony or misdemeanor offense, the court after sentencing  
2       the defendant may, upon motion of the State's Attorney,  
3       hold sentence in abeyance and remand the defendant to the  
4       custody of the Attorney General of the United States or his  
5       or her designated agent to be deported when:

6               (1) a final order of deportation has been issued  
7       against the defendant pursuant to proceedings under  
8       the Immigration and Nationality Act, and

9               (2) the deportation of the defendant would not  
10      deprecate the seriousness of the defendant's conduct  
11      and would not be inconsistent with the ends of justice.

12      Otherwise, the defendant shall be sentenced as  
13      provided in this Chapter V.

14      (B) If the defendant has already been sentenced for a  
15      felony or misdemeanor offense, or has been placed on  
16      probation under Section 10 of the Cannabis Control Act,  
17      Section 410 of the Illinois Controlled Substances Act, or  
18      Section 70 of the Methamphetamine Control and Community  
19      Protection Act, the court may, upon motion of the State's  
20      Attorney to suspend the sentence imposed, commit the  
21      defendant to the custody of the Attorney General of the  
22      United States or his or her designated agent when:

23               (1) a final order of deportation has been issued  
24      against the defendant pursuant to proceedings under  
25      the Immigration and Nationality Act, and

26               (2) the deportation of the defendant would not

1           deprecate the seriousness of the defendant's conduct  
2           and would not be inconsistent with the ends of justice.

3           (C) This subsection (1) does not apply to offenders who  
4           are subject to the provisions of paragraph (2) of  
5           subsection (a) of Section 3-6-3.

6           (D) Upon motion of the State's Attorney, if a defendant  
7           sentenced under this Section returns to the jurisdiction of  
8           the United States, the defendant shall be recommitted to  
9           the custody of the county from which he or she was  
10          sentenced. Thereafter, the defendant shall be brought  
11          before the sentencing court, which may impose any sentence  
12          that was available under Section 5-5-3 at the time of  
13          initial sentencing. In addition, the defendant shall not be  
14          eligible for additional good conduct credit for  
15          meritorious service as provided under Section 3-6-6.

16          (m) A person convicted of criminal defacement of property  
17          under Section 21-1.3 of the Criminal Code of 1961, in which the  
18          property damage exceeds \$300 and the property damaged is a  
19          school building, shall be ordered to perform community service  
20          that may include cleanup, removal, or painting over the  
21          defacement.

22          (n) The court may sentence a person convicted of a  
23          violation of Section 12-19, 12-21, or 16-1.3 of the Criminal  
24          Code of 1961 (i) to an impact incarceration program if the  
25          person is otherwise eligible for that program under Section  
26          5-8-1.1, (ii) to community service, or (iii) if the person is

1 an addict or alcoholic, as defined in the Alcoholism and Other  
2 Drug Abuse and Dependency Act, to a substance or alcohol abuse  
3 program licensed under that Act.

4 (o) Whenever a person is convicted of a sex offense as  
5 defined in Section 2 of the Sex Offender Registration Act, the  
6 defendant's driver's license or permit shall be subject to  
7 renewal on an annual basis in accordance with the provisions of  
8 license renewal established by the Secretary of State.

9 (Source: P.A. 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,  
10 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,  
11 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,  
12 eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556,  
13 eff. 9-11-05; 94-993, eff. 1-1-07; 94-1035, eff. 7-1-07;  
14 revised 8-28-06.)

15 (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

16 Sec. 5-5-3.2. Factors in Aggravation.

17 (a) The following factors shall be accorded weight in favor  
18 of imposing a term of imprisonment or may be considered by the  
19 court as reasons to impose a more severe sentence under Section  
20 5-8-1 or Article 4.5 of Chapter V:

21 (1) the defendant's conduct caused or threatened  
22 serious harm;

23 (2) the defendant received compensation for committing  
24 the offense;

25 (3) the defendant has a history of prior delinquency or

1 criminal activity;

2 (4) the defendant, by the duties of his office or by  
3 his position, was obliged to prevent the particular offense  
4 committed or to bring the offenders committing it to  
5 justice;

6 (5) the defendant held public office at the time of the  
7 offense, and the offense related to the conduct of that  
8 office;

9 (6) the defendant utilized his professional reputation  
10 or position in the community to commit the offense, or to  
11 afford him an easier means of committing it;

12 (7) the sentence is necessary to deter others from  
13 committing the same crime;

14 (8) the defendant committed the offense against a  
15 person 60 years of age or older or such person's property;

16 (9) the defendant committed the offense against a  
17 person who is physically handicapped or such person's  
18 property;

19 (10) by reason of another individual's actual or  
20 perceived race, color, creed, religion, ancestry, gender,  
21 sexual orientation, physical or mental disability, or  
22 national origin, the defendant committed the offense  
23 against (i) the person or property of that individual; (ii)  
24 the person or property of a person who has an association  
25 with, is married to, or has a friendship with the other  
26 individual; or (iii) the person or property of a relative

1 (by blood or marriage) of a person described in clause (i)  
2 or (ii). For the purposes of this Section, "sexual  
3 orientation" means heterosexuality, homosexuality, or  
4 bisexuality;

5 (11) the offense took place in a place of worship or on  
6 the grounds of a place of worship, immediately prior to,  
7 during or immediately following worship services. For  
8 purposes of this subparagraph, "place of worship" shall  
9 mean any church, synagogue or other building, structure or  
10 place used primarily for religious worship;

11 (12) the defendant was convicted of a felony committed  
12 while he was released on bail or his own recognizance  
13 pending trial for a prior felony and was convicted of such  
14 prior felony, or the defendant was convicted of a felony  
15 committed while he was serving a period of probation,  
16 conditional discharge, or mandatory supervised release  
17 under subsection (d) of Section 5-8-1 for a prior felony;

18 (13) the defendant committed or attempted to commit a  
19 felony while he was wearing a bulletproof vest. For the  
20 purposes of this paragraph (13), a bulletproof vest is any  
21 device which is designed for the purpose of protecting the  
22 wearer from bullets, shot or other lethal projectiles;

23 (14) the defendant held a position of trust or  
24 supervision such as, but not limited to, family member as  
25 defined in Section 12-12 of the Criminal Code of 1961,  
26 teacher, scout leader, baby sitter, or day care worker, in

1 relation to a victim under 18 years of age, and the  
2 defendant committed an offense in violation of Section  
3 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,  
4 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961  
5 against that victim;

6 (15) the defendant committed an offense related to the  
7 activities of an organized gang. For the purposes of this  
8 factor, "organized gang" has the meaning ascribed to it in  
9 Section 10 of the Streetgang Terrorism Omnibus Prevention  
10 Act;

11 (16) the defendant committed an offense in violation of  
12 one of the following Sections while in a school, regardless  
13 of the time of day or time of year; on any conveyance  
14 owned, leased, or contracted by a school to transport  
15 students to or from school or a school related activity; on  
16 the real property of a school; or on a public way within  
17 1,000 feet of the real property comprising any school:  
18 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,  
19 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
20 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or  
21 33A-2 of the Criminal Code of 1961;

22 (16.5) the defendant committed an offense in violation  
23 of one of the following Sections while in a day care  
24 center, regardless of the time of day or time of year; on  
25 the real property of a day care center, regardless of the  
26 time of day or time of year; or on a public way within

1 1,000 feet of the real property comprising any day care  
2 center, regardless of the time of day or time of year:  
3 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,  
4 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
5 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or  
6 33A-2 of the Criminal Code of 1961;

7 (17) the defendant committed the offense by reason of  
8 any person's activity as a community policing volunteer or  
9 to prevent any person from engaging in activity as a  
10 community policing volunteer. For the purpose of this  
11 Section, "community policing volunteer" has the meaning  
12 ascribed to it in Section 2-3.5 of the Criminal Code of  
13 1961;

14 (18) the defendant committed the offense in a nursing  
15 home or on the real property comprising a nursing home. For  
16 the purposes of this paragraph (18), "nursing home" means a  
17 skilled nursing or intermediate long term care facility  
18 that is subject to license by the Illinois Department of  
19 Public Health under the Nursing Home Care Act;

20 (19) the defendant was a federally licensed firearm  
21 dealer and was previously convicted of a violation of  
22 subsection (a) of Section 3 of the Firearm Owners  
23 Identification Card Act and has now committed either a  
24 felony violation of the Firearm Owners Identification Card  
25 Act or an act of armed violence while armed with a firearm;

26 (20) the defendant (i) committed the offense of



1 reckless homicide under Section 9-3 of the Criminal Code of  
2 1961 or the offense of driving under the influence of  
3 alcohol, other drug or drugs, intoxicating compound or  
4 compounds or any combination thereof under Section 11-501  
5 of the Illinois Vehicle Code or a similar provision of a  
6 local ordinance and (ii) was operating a motor vehicle in  
7 excess of 20 miles per hour over the posted speed limit as  
8 provided in Article VI of Chapter 11 of the Illinois  
9 Vehicle Code; or

10 (21) the defendant (i) committed the offense of  
11 reckless driving or aggravated reckless driving under  
12 Section 11-503 of the Illinois Vehicle Code and (ii) was  
13 operating a motor vehicle in excess of 20 miles per hour  
14 over the posted speed limit as provided in Article VI of  
15 Chapter 11 of the Illinois Vehicle Code.

16 For the purposes of this Section:

17 "School" is defined as a public or private elementary or  
18 secondary school, community college, college, or university.

19 "Day care center" means a public or private State certified  
20 and licensed day care center as defined in Section 2.09 of the  
21 Child Care Act of 1969 that displays a sign in plain view  
22 stating that the property is a day care center.

23 (b) The following factors, related to all felonies, may be  
24 considered by the court as reasons to impose an extended term  
25 sentence under Section 5-8-2 upon any offender:

26 (1) When a defendant is convicted of any felony, after

1 having been previously convicted in Illinois or any other  
2 jurisdiction of the same or similar class felony or greater  
3 class felony, when such conviction has occurred within 10  
4 years after the previous conviction, excluding time spent  
5 in custody, and such charges are separately brought and  
6 tried and arise out of different series of acts; or

7 (2) When a defendant is convicted of any felony, with  
8 the exception of concealment of homicidal death in  
9 violation of Section 9-3.1 of the Criminal Code of 1961  
10 (720 ILCS 5/9-3.1), and there is a finding ~~the court finds~~  
11 that the offense was accompanied by exceptionally brutal or  
12 heinous behavior indicative of wanton cruelty; or

13 ~~(3) When a defendant is convicted of voluntary~~  
14 ~~manslaughter, second degree murder, involuntary~~  
15 ~~manslaughter or reckless homicide in which the defendant~~  
16 ~~has been convicted of causing the death of more than one~~  
17 ~~individual; or~~

18 (3) ~~(4)~~ When a defendant is convicted of any felony  
19 committed against:

20 (i) a person under 12 years of age at the time of  
21 the offense or such person's property;

22 (ii) a person 60 years of age or older at the time  
23 of the offense or such person's property; or

24 (iii) a person physically handicapped at the time  
25 of the offense or such person's property; or

26 ~~(5) In the case of a defendant convicted of aggravated~~

~~criminal sexual assault or criminal sexual assault, when the court finds that aggravated criminal sexual assault or criminal sexual assault was also committed on the same victim by one or more other individuals, and the defendant voluntarily participated in the crime with the knowledge of the participation of the others in the crime, and the commission of the crime was part of a single course of conduct during which there was no substantial change in the nature of the criminal objective; or~~

(4) ~~(6)~~ When a defendant is convicted of any felony and the offense involved any of the following types of specific misconduct committed as part of a ceremony, rite, initiation, observance, performance, practice or activity of any actual or ostensible religious, fraternal, or social group:

(i) the brutalizing or torturing of humans or animals;

(ii) the theft of human corpses;

(iii) the kidnapping of humans;

(iv) the desecration of any cemetery, religious, fraternal, business, governmental, educational, or other building or property; or

(v) ritualized abuse of a child; or

~~(7) When a defendant is convicted of first degree murder, after having been previously convicted in Illinois of any offense listed under paragraph (c) (2) of Section~~

~~5-5-3, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or~~

(5) ~~(8)~~ When a defendant is convicted of a felony other than conspiracy and there is a finding ~~the court finds~~ that the felony was committed under an agreement with 2 or more other persons to commit that offense and the defendant, with respect to the other individuals, occupied a position of organizer, supervisor, financier, or any other position of management or leadership, and the court further finds that the felony committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's leadership in an organized gang; or

~~(9) When a defendant is convicted of a felony violation of Section 24-1 of the Criminal Code of 1961 and the court finds that the defendant is a member of an organized gang; or~~

(6) ~~(10)~~ When a defendant is convicted of an ~~committed~~ ~~the~~ offense committed while using a firearm with a laser sight attached to it. For purposes of this paragraph ~~(10)~~, "laser sight" has the meaning ascribed to it in Section 24.6-5 of the Criminal Code of 1961; or

(7) ~~(11)~~ When a defendant who was at least 17 years of age at the time of the commission of the offense is

1 convicted of a felony and has been previously adjudicated a  
2 delinquent minor under the Juvenile Court Act of 1987 for  
3 an act that if committed by an adult would be a Class X or  
4 Class 1 felony when the conviction has occurred within 10  
5 years after the previous adjudication, excluding time  
6 spent in custody; or

7 ~~(12) When a defendant commits an offense involving the~~  
8 ~~illegal manufacture of a controlled substance under~~  
9 ~~Section 401 of the Illinois Controlled Substances Act, the~~  
10 ~~illegal manufacture of methamphetamine under Section 25 of~~  
11 ~~the Methamphetamine Control and Community Protection Act,~~  
12 ~~or the illegal possession of explosives and an emergency~~  
13 ~~response officer in the performance of his or her duties is~~  
14 ~~killed or injured at the scene of the offense while~~  
15 ~~responding to the emergency caused by the commission of the~~  
16 ~~offense. In this paragraph (12), "emergency" means a~~  
17 ~~situation in which a person's life, health, or safety is in~~  
18 ~~jeopardy; and "emergency response officer" means a peace~~  
19 ~~officer, community policing volunteer, fireman, emergency~~  
20 ~~medical technician-ambulance, emergency medical~~  
21 ~~technician-intermediate, emergency medical~~  
22 ~~technician-paramedic, ambulance driver, other medical~~  
23 ~~assistance or first aid personnel, or hospital emergency~~  
24 ~~room personnel; or~~

25 (8) ~~(13)~~ When a defendant commits any felony and the  
26 defendant used, possessed, exercised control over, or

1 otherwise directed an animal to assault a law enforcement  
2 officer engaged in the execution of his or her official  
3 duties or in furtherance of the criminal activities of an  
4 organized gang in which the defendant is engaged.

5 (c) The following factors may be considered by the court as  
6 reasons to impose an extended term sentence under Section 5-8-2  
7 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

8 (1) When a defendant is convicted of first degree  
9 murder, after having been previously convicted in Illinois  
10 of any offense listed under paragraph (c)(2) of Section  
11 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred  
12 within 10 years after the previous conviction, excluding  
13 time spent in custody, and the charges are separately  
14 brought and tried and arise out of different series of  
15 acts.

16 (2) When a defendant is convicted of voluntary  
17 manslaughter, second degree murder, involuntary  
18 manslaughter, or reckless homicide in which the defendant  
19 has been convicted of causing the death of more than one  
20 individual.

21 (3) When a defendant is convicted of aggravated  
22 criminal sexual assault or criminal sexual assault, when  
23 there is a finding that aggravated criminal sexual assault  
24 or criminal sexual assault was also committed on the same  
25 victim by one or more other individuals, and the defendant  
26 voluntarily participated in the crime with the knowledge of

1       the participation of the others in the crime, and the  
2       commission of the crime was part of a single course of  
3       conduct during which there was no substantial change in the  
4       nature of the criminal objective.

5       (4) When a defendant is convicted of aggravated  
6       criminal sexual assault when the victim was under 18 years  
7       of age at the time of the commission of the offense, or  
8       predatory criminal sexual assault of a child under  
9       subsection (a)(1) of Section 12-14.1 of the Criminal Code  
10      of 1961 (720 ILCS 5/12-14.1).

11      (5) When a defendant is convicted of a felony violation  
12      of Section 24-1 of the Criminal Code of 1961 (720 ILCS  
13      5/24-1) and there is a finding that the defendant is a  
14      member of an organized gang.

15      (6) When a defendant was convicted of unlawful use of  
16      weapons under Section 24-1 of the Criminal Code of 1961  
17      (720 ILCS 5/24-1) for possessing a weapon that is not  
18      readily distinguishable as one of the weapons enumerated in  
19      Section 24-1 of the Criminal Code of 1961 (720 ILCS  
20      5/24-1).

21      (7) When a defendant is convicted of an offense  
22      involving the illegal manufacture of a controlled  
23      substance under Section 401 of the Illinois Controlled  
24      Substances Act (720 ILCS 570/401), the illegal manufacture  
25      of methamphetamine under Section 25 of the Methamphetamine  
26      Control and Community Protection Act (720 ILCS 646/25), or

1       the illegal possession of explosives and an emergency  
2       response officer in the performance of his or her duties is  
3       killed or injured at the scene of the offense while  
4       responding to the emergency caused by the commission of the  
5       offense. In this paragraph, "emergency" means a situation  
6       in which a person's life, health, or safety is in jeopardy;  
7       and "emergency response officer" means a peace officer,  
8       community policing volunteer, fireman, emergency medical  
9       technician-ambulance,                      emergency                      medical  
10       technician-intermediate,                      emergency                      medical  
11       technician-paramedic, ambulance driver, other medical  
12       assistance or first aid personnel, or hospital emergency  
13       room personnel.

14       (d) ~~(b 1)~~ For the purposes of this Section, "organized  
15       gang" has the meaning ascribed to it in Section 10 of the  
16       Illinois Streetgang Terrorism Omnibus Prevention Act.

17       ~~(c) The court may impose an extended term sentence under~~  
18       ~~Section 5-8-2 upon any offender who was convicted of aggravated~~  
19       ~~criminal sexual assault or predatory criminal sexual assault of~~  
20       ~~a child under subsection (a)(1) of Section 12-14.1 of the~~  
21       ~~Criminal Code of 1961 where the victim was under 18 years of~~  
22       ~~age at the time of the commission of the offense.~~

23       ~~(d) The court may impose an extended term sentence under~~  
24       ~~Section 5-8-2 upon any offender who was convicted of unlawful~~  
25       ~~use of weapons under Section 24-1 of the Criminal Code of 1961~~  
26       ~~for possessing a weapon that is not readily distinguishable as~~



1 ~~one of the weapons enumerated in Section 24-1 of the Criminal~~  
2 ~~Code of 1961.~~

3 (Source: P.A. 94-131, eff. 7-7-05; 94-375, eff. 1-1-06; 94-556,  
4 eff. 9-11-05; 94-819, eff. 5-31-06.)

5 (730 ILCS 5/5-5-4.3) (from Ch. 38, par. 1005-5-4.3)

6 Sec. 5-5-4.3. Duties of Department of Corrections.) (a) The  
7 Department of Corrections shall publish an annual report  
8 beginning not less than 18 months after the effective date of  
9 this amendatory Act of 1977 and not later than April 30 of each  
10 year which shall be made available to trial and appellate court  
11 judges for their use in imposing or reviewing sentences under  
12 this Code and to other interested parties upon a showing of  
13 need. That report shall set forth the following data:

14 (1) The range, frequency, distribution and average of terms  
15 of imprisonment imposed on offenders committed to the  
16 Department of Corrections, by offense:

17 (2) The range, frequency, distribution and average of terms  
18 actually served in prison by offenders committed to the  
19 Department of Corrections, by offense:

20 (3) The number of instances in which an offender was  
21 committed to the Department of Corrections pursuant to Sections  
22 5-8-1, 5-8-2 and 5-8-4 and Article 4.5 of Chapter V of this  
23 Code, by offense, and the range, frequency, distribution and  
24 average of sentences imposed pursuant to those provisions, by  
25 offense; and

1           (4) Such other information which the Department can provide  
2 which might be requested by the court to assist it in imposing  
3 sentences.

4           (b) All data required to be disseminated by this Section  
5 shall be set forth for a period of not less than the preceding  
6 5 years, insofar as possible.

7           (c) All data required to be disseminated by this Section  
8 shall conform fully to all state and federal laws and  
9 resolutions concerning the security, privacy and  
10 confidentiality of such materials.

11       (Source: P.A. 84-240.)

12           (730 ILCS 5/5-6-2) (from Ch. 38, par. 1005-6-2)

13       Sec. 5-6-2. Incidents of Probation and of Conditional  
14 Discharge.

15           (a) When an offender is sentenced to probation or  
16 conditional discharge, the court shall impose a period as  
17 provided in Article 4.5 of Chapter V ~~under paragraph (b) of~~  
18 ~~this Section~~, and shall specify the conditions under Section  
19 5-6-3.

20           (b) ~~Unless terminated sooner as provided in paragraph (c)~~  
21 ~~of this Section or extended pursuant to paragraph (c) of this~~  
22 ~~Section, the period of probation or conditional discharge shall~~  
23 ~~be as follows:~~

24               ~~(1) for a Class 1 or Class 2 felony, not to exceed 4~~  
25               ~~years;~~

1           ~~(2) for a Class 3 or Class 4 felony, not to exceed 30~~  
2           ~~months;~~

3           ~~(3) for a misdemeanor, not to exceed 2 years;~~

4           ~~(4) for a petty offense, not to exceed 6 months.~~

5           Multiple terms of probation imposed at the same time shall  
6           run concurrently.

7           (c) The court may at any time terminate probation or  
8           conditional discharge if warranted by the conduct of the  
9           offender and the ends of justice, as provided in Section 5-6-4.

10          (d) Upon the expiration or termination of the period of  
11          probation or of conditional discharge, the court shall enter an  
12          order discharging the offender.

13          (e) The court may extend any period of probation or  
14          conditional discharge beyond the limits set forth in Article  
15          4.5 of Chapter V ~~paragraph (b) of this Section~~ upon a violation  
16          of a condition of the probation or conditional discharge, for  
17          the payment of an assessment required by Section 10.3 of the  
18          Cannabis Control Act, Section 411.2 of the Illinois Controlled  
19          Substances Act, or Section 80 of the Methamphetamine Control  
20          and Community Protection Act, or for the payment of restitution  
21          as provided by an order of restitution under Section 5-5-6 of  
22          this Code.

23          (f) The court may impose a term of probation that is  
24          concurrent or consecutive to a term of imprisonment so long as  
25          the maximum term imposed does not exceed the maximum term  
26          provided under Article 4.5 of Chapter V or Article 8 of this

1 Chapter. The court may provide that probation may commence  
2 while an offender is on mandatory supervised release,  
3 participating in a day release program, or being monitored by  
4 an electronic monitoring device.

5 (Source: P.A. 93-1014, eff. 1-1-05; 94-556, eff. 9-11-05.)

6 (730 ILCS 5/5-6-4) (from Ch. 38, par. 1005-6-4)

7 Sec. 5-6-4. Violation, Modification or Revocation of  
8 Probation, of Conditional Discharge or Supervision or of a  
9 sentence of county impact incarceration - Hearing.

10 (a) Except in cases where conditional discharge or  
11 supervision was imposed for a petty offense as defined in  
12 Section 5-1-17, when a petition is filed charging a violation  
13 of a condition, the court may:

14 (1) in the case of probation violations, order the  
15 issuance of a notice to the offender to be present by the  
16 County Probation Department or such other agency  
17 designated by the court to handle probation matters; and in  
18 the case of conditional discharge or supervision  
19 violations, such notice to the offender shall be issued by  
20 the Circuit Court Clerk; and in the case of a violation of  
21 a sentence of county impact incarceration, such notice  
22 shall be issued by the Sheriff;

23 (2) order a summons to the offender to be present for  
24 hearing; or

25 (3) order a warrant for the offender's arrest where

1       there is danger of his fleeing the jurisdiction or causing  
2       serious harm to others or when the offender fails to answer  
3       a summons or notice from the clerk of the court or Sheriff.

4       Personal service of the petition for violation of probation  
5       or the issuance of such warrant, summons or notice shall toll  
6       the period of probation, conditional discharge, supervision,  
7       or sentence of county impact incarceration until the final  
8       determination of the charge, and the term of probation,  
9       conditional discharge, supervision, or sentence of county  
10      impact incarceration shall not run until the hearing and  
11      disposition of the petition for violation.

12      (b) The court shall conduct a hearing of the alleged  
13      violation. The court shall admit the offender to bail pending  
14      the hearing unless the alleged violation is itself a criminal  
15      offense in which case the offender shall be admitted to bail on  
16      such terms as are provided in the Code of Criminal Procedure of  
17      1963, as amended. In any case where an offender remains  
18      incarcerated only as a result of his alleged violation of the  
19      court's earlier order of probation, supervision, conditional  
20      discharge, or county impact incarceration such hearing shall be  
21      held within 14 days of the onset of said incarceration, unless  
22      the alleged violation is the commission of another offense by  
23      the offender during the period of probation, supervision or  
24      conditional discharge in which case such hearing shall be held  
25      within the time limits described in Section 103-5 of the Code  
26      of Criminal Procedure of 1963, as amended.

1 (c) The State has the burden of going forward with the  
2 evidence and proving the violation by the preponderance of the  
3 evidence. The evidence shall be presented in open court with  
4 the right of confrontation, cross-examination, and  
5 representation by counsel.

6 (d) Probation, conditional discharge, periodic  
7 imprisonment and supervision shall not be revoked for failure  
8 to comply with conditions of a sentence or supervision, which  
9 imposes financial obligations upon the offender unless such  
10 failure is due to his willful refusal to pay.

11 (e) If the court finds that the offender has violated a  
12 condition at any time prior to the expiration or termination of  
13 the period, it may continue him on the existing sentence, with  
14 or without modifying or enlarging the conditions, or may impose  
15 any other sentence that was available under Article 4.5 of  
16 Chapter V ~~Section 5-5-3~~ of this Code or Section 11-501 of the  
17 Illinois Vehicle Code at the time of initial sentencing. If the  
18 court finds that the person has failed to successfully complete  
19 his or her sentence to a county impact incarceration program,  
20 the court may impose any other sentence that was available  
21 under Article 4.5 of Chapter V ~~Section 5-5-3~~ of this Code or  
22 Section 11-501 of the Illinois Vehicle Code at the time of  
23 initial sentencing, except for a sentence of probation or  
24 conditional discharge. If the court finds that the offender has  
25 violated paragraph (8.6) of subsection (a) of Section 5-6-3,  
26 the court shall revoke the probation of the offender. If the

1 court finds that the offender has violated subsection (o) of  
2 Section 5-6-3.1, the court shall revoke the supervision of the  
3 offender.

4 (f) The conditions of probation, of conditional discharge,  
5 of supervision, or of a sentence of county impact incarceration  
6 may be modified by the court on motion of the supervising  
7 agency or on its own motion or at the request of the offender  
8 after notice and a hearing.

9 (g) A judgment revoking supervision, probation,  
10 conditional discharge, or a sentence of county impact  
11 incarceration is a final appealable order.

12 (h) Resentencing after revocation of probation,  
13 conditional discharge, supervision, or a sentence of county  
14 impact incarceration shall be under Article 4. Time served on  
15 probation, conditional discharge or supervision shall not be  
16 credited by the court against a sentence of imprisonment or  
17 periodic imprisonment unless the court orders otherwise.

18 (i) Instead of filing a violation of probation, conditional  
19 discharge, supervision, or a sentence of county impact  
20 incarceration, an agent or employee of the supervising agency  
21 with the concurrence of his or her supervisor may serve on the  
22 defendant a Notice of Intermediate Sanctions. The Notice shall  
23 contain the technical violation or violations involved, the  
24 date or dates of the violation or violations, and the  
25 intermediate sanctions to be imposed. Upon receipt of the  
26 Notice, the defendant shall immediately accept or reject the

1 intermediate sanctions. If the sanctions are accepted, they  
2 shall be imposed immediately. If the intermediate sanctions are  
3 rejected or the defendant does not respond to the Notice, a  
4 violation of probation, conditional discharge, supervision, or  
5 a sentence of county impact incarceration shall be immediately  
6 filed with the court. The State's Attorney and the sentencing  
7 court shall be notified of the Notice of Sanctions. Upon  
8 successful completion of the intermediate sanctions, a court  
9 may not revoke probation, conditional discharge, supervision,  
10 or a sentence of county impact incarceration or impose  
11 additional sanctions for the same violation. A notice of  
12 intermediate sanctions may not be issued for any violation of  
13 probation, conditional discharge, supervision, or a sentence  
14 of county impact incarceration which could warrant an  
15 additional, separate felony charge. The intermediate sanctions  
16 shall include a term of home detention as provided in Article  
17 8A of Chapter V of this Code for multiple or repeat violations  
18 of the terms and conditions of a sentence of probation,  
19 conditional discharge, or supervision.

20 (j) When an offender is re-sentenced after revocation of  
21 probation that was imposed in combination with a sentence of  
22 imprisonment for the same offense, the aggregate of the  
23 sentences may not exceed the maximum term authorized under  
24 Article 8 of this Chapter.

25 (Source: P.A. 93-800, eff. 1-1-05; 93-1014, eff. 1-1-05;  
26 94-161, eff. 7-11-05.)



1 (730 ILCS 5/5-6-4.1) (from Ch. 38, par. 1005-6-4.1)

2 Sec. 5-6-4.1. Violation, Modification or Revocation of  
3 Conditional Discharge or Supervision - Hearing.)

4 (a) In cases where a defendant was placed upon supervision  
5 or conditional discharge for the commission of a petty offense,  
6 upon the oral or written motion of the State, or on the court's  
7 own motion, which charges that a violation of a condition of  
8 that conditional discharge or supervision has occurred, the  
9 court may:

10 (1) Conduct a hearing instanter if the offender is  
11 present in court;

12 (2) Order the issuance by the court clerk of a notice  
13 to the offender to be present for a hearing for violation;

14 (3) Order summons to the offender to be present; or

15 (4) Order a warrant for the offender's arrest.

16 The oral motion, if the defendant is present, or the  
17 issuance of such warrant, summons or notice shall toll the  
18 period of conditional discharge or supervision until the final  
19 determination of the charge, and the term of conditional  
20 discharge or supervision shall not run until the hearing and  
21 disposition of the petition for violation.

22 (b) The Court shall admit the offender to bail pending the  
23 hearing.

24 (c) The State has the burden of going forward with the  
25 evidence and proving the violation by the preponderance of the

1 evidence. The evidence shall be presented in open court with  
2 the right of confrontation, cross-examination, and  
3 representation by counsel.

4 (d) Conditional discharge or supervision shall not be  
5 revoked for failure to comply with the conditions of the  
6 discharge or supervision which imposed financial obligations  
7 upon the offender unless such failure is due to his wilful  
8 refusal to pay.

9 (e) If the court finds that the offender has violated a  
10 condition at any time prior to the expiration or termination of  
11 the period, it may continue him on the existing sentence or  
12 supervision with or without modifying or enlarging the  
13 conditions, or may impose any other sentence that was available  
14 under Article 4.5 of Chapter V ~~Section 5-5-3~~ of this Code or  
15 Section 11-501 of the Illinois Vehicle Code at the time of  
16 initial sentencing.

17 (f) The conditions of conditional discharge and of  
18 supervision may be modified by the court on motion of the  
19 probation officer or on its own motion or at the request of the  
20 offender after notice to the defendant and a hearing.

21 (g) A judgment revoking supervision is a final appealable  
22 order.

23 (h) Resentencing after revocation of conditional discharge  
24 or of supervision shall be under Article 4. Time served on  
25 conditional discharge or supervision shall be credited by the  
26 court against a sentence of imprisonment or periodic

1 imprisonment unless the court orders otherwise.

2 (Source: P.A. 93-800, eff. 1-1-05.)

3 (730 ILCS 5/5-7-8) (from Ch. 38, par. 1005-7-8)

4 Sec. 5-7-8. Subsequent Sentences. (a) The service of a  
5 sentence of imprisonment shall satisfy any sentence of periodic  
6 imprisonment which was imposed on an offender for an offense  
7 committed prior to the imposition of the sentence. An offender  
8 who is serving a sentence of periodic imprisonment at the time  
9 a sentence of imprisonment is imposed shall be delivered to the  
10 custody of the Department of Corrections to commence service of  
11 the sentence immediately.

12 (b) If a sentence of imprisonment under Section 5-4.5-55,  
13 5-4.5-60, or 5-4.5-65 (730 ILCS 5/5-4.5-55, 5/5-4.5-60, or  
14 5/5-4.5-65) ~~5-8-3~~ is imposed on an offender who is under a  
15 previously imposed sentence of periodic imprisonment, such  
16 person shall commence service of the sentence immediately.  
17 Where such sentence is for a term in excess of 90 days, the  
18 service of such sentence shall satisfy the sentence of periodic  
19 imprisonment.

20 (Source: P.A. 82-717.)

21 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

22 Sec. 5-8-1. Natural life imprisonment; mandatory  
23 supervised release ~~Sentence of Imprisonment for Felony.~~

24 (a) Except as otherwise provided in the statute defining

1 the offense or in Article 4.5 of Chapter V, a sentence of  
2 imprisonment for a felony shall be a determinate sentence set  
3 by the court under this Section, according to the following  
4 limitations:

5 (1) for first degree murder,

6 (a) (blank), ~~a term shall be not less than 20 years~~  
7 ~~and not more than 60 years, or~~

8 (b) if a trier of fact finds beyond a reasonable  
9 doubt that the murder was accompanied by exceptionally  
10 brutal or heinous behavior indicative of wanton  
11 cruelty or, except as set forth in subsection (a)(1)(c)  
12 of this Section, that any of the aggravating factors  
13 listed in subsection (b) of Section 9-1 of the Criminal  
14 Code of 1961 are present, the court may sentence the  
15 defendant to a term of natural life imprisonment, or

16 (c) the court shall sentence the defendant to a  
17 term of natural life imprisonment when the death  
18 penalty is not imposed if the defendant,

19 (i) has previously been convicted of first  
20 degree murder under any state or federal law, or

21 (ii) is a person who, at the time of the  
22 commission of the murder, had attained the age of  
23 17 or more and is found guilty of murdering an  
24 individual under 12 years of age; or, irrespective  
25 of the defendant's age at the time of the  
26 commission of the offense, is found guilty of

1 murdering more than one victim, or

2 (iii) is found guilty of murdering a peace  
3 officer, fireman, or emergency management worker  
4 when the peace officer, fireman, or emergency  
5 management worker was killed in the course of  
6 performing his official duties, or to prevent the  
7 peace officer or fireman from performing his  
8 official duties, or in retaliation for the peace  
9 officer, fireman, or emergency management worker  
10 from performing his official duties, and the  
11 defendant knew or should have known that the  
12 murdered individual was a peace officer, fireman,  
13 or emergency management worker, or

14 (iv) is found guilty of murdering an employee  
15 of an institution or facility of the Department of  
16 Corrections, or any similar local correctional  
17 agency, when the employee was killed in the course  
18 of performing his official duties, or to prevent  
19 the employee from performing his official duties,  
20 or in retaliation for the employee performing his  
21 official duties, or

22 (v) is found guilty of murdering an emergency  
23 medical technician - ambulance, emergency medical  
24 technician - intermediate, emergency medical  
25 technician - paramedic, ambulance driver or other  
26 medical assistance or first aid person while

1           employed by a municipality or other governmental  
2           unit when the person was killed in the course of  
3           performing official duties or to prevent the  
4           person from performing official duties or in  
5           retaliation for performing official duties and the  
6           defendant knew or should have known that the  
7           murdered individual was an emergency medical  
8           technician - ambulance, emergency medical  
9           technician - intermediate, emergency medical  
10          technician - paramedic, ambulance driver, or other  
11          medical assistant or first aid personnel, or

12           (vi) is a person who, at the time of the  
13          commission of the murder, had not attained the age  
14          of 17, and is found guilty of murdering a person  
15          under 12 years of age and the murder is committed  
16          during the course of aggravated criminal sexual  
17          assault, criminal sexual assault, or aggravated  
18          kidnaping, or

19           (vii) is found guilty of first degree murder  
20          and the murder was committed by reason of any  
21          person's activity as a community policing  
22          volunteer or to prevent any person from engaging in  
23          activity as a community policing volunteer. For  
24          the purpose of this Section, "community policing  
25          volunteer" has the meaning ascribed to it in  
26          Section 2-3.5 of the Criminal Code of 1961.

1           For purposes of clause (v), "emergency medical  
2           technician - ambulance", "emergency medical technician  
3           - intermediate", "emergency medical technician -  
4           paramedic", have the meanings ascribed to them in the  
5           Emergency Medical Services (EMS) Systems Act.

6           (d) (i) if the person committed the offense while  
7           armed with a firearm, 15 years shall be added to  
8           the term of imprisonment imposed by the court;

9           (ii) if, during the commission of the offense,  
10          the person personally discharged a firearm, 20  
11          years shall be added to the term of imprisonment  
12          imposed by the court;

13          (iii) if, during the commission of the  
14          offense, the person personally discharged a  
15          firearm that proximately caused great bodily harm,  
16          permanent disability, permanent disfigurement, or  
17          death to another person, 25 years or up to a term  
18          of natural life shall be added to the term of  
19          imprisonment imposed by the court. ~~1.~~

20          ~~(1.5) for second degree murder, a term shall be not~~  
21          ~~less than 4 years and not more than 20 years;~~

22          (2) (blank) ~~for a person adjudged a habitual criminal~~  
23          ~~under Article 33B of the Criminal Code of 1961, as amended,~~  
24          ~~the sentence shall be a term of natural life imprisonment;~~

25          (2.5) for a person convicted under the circumstances  
26          described in paragraph (3) of subsection (b) of Section

1 12-13, paragraph (2) of subsection (d) of Section 12-14,  
2 paragraph (1.2) of subsection (b) of Section 12-14.1, or  
3 paragraph (2) of subsection (b) of Section 12-14.1 of the  
4 Criminal Code of 1961, the sentence shall be a term of  
5 natural life imprisonment.~~†~~

6 ~~(3) except as otherwise provided in the statute~~  
7 ~~defining the offense, for a Class X felony, the sentence~~  
8 ~~shall be not less than 6 years and not more than 30 years;~~

9 ~~(4) for a Class 1 felony, other than second degree~~  
10 ~~murder, the sentence shall be not less than 4 years and not~~  
11 ~~more than 15 years;~~

12 ~~(5) for a Class 2 felony, the sentence shall be not~~  
13 ~~less than 3 years and not more than 7 years;~~

14 ~~(6) for a Class 3 felony, the sentence shall be not~~  
15 ~~less than 2 years and not more than 5 years;~~

16 ~~(7) for a Class 4 felony, the sentence shall be not~~  
17 ~~less than 1 year and not more than 3 years.~~

18 (b) (Blank.) ~~The sentencing judge in each felony conviction~~  
19 ~~shall set forth his reasons for imposing the particular~~  
20 ~~sentence he enters in the case, as provided in Section 5-4-1 of~~  
21 ~~this Code. Those reasons may include any mitigating or~~  
22 ~~aggravating factors specified in this Code, or the lack of any~~  
23 ~~such circumstances, as well as any other such factors as the~~  
24 ~~judge shall set forth on the record that are consistent with~~  
25 ~~the purposes and principles of sentencing set out in this Code.~~

26 (c) (Blank.) ~~A motion to reduce a sentence may be made, or~~



1 ~~the court may reduce a sentence without motion, within 30 days~~  
2 ~~after the sentence is imposed. A defendant's challenge to the~~  
3 ~~correctness of a sentence or to any aspect of the sentencing~~  
4 ~~hearing shall be made by a written motion filed within 30 days~~  
5 ~~following the imposition of sentence. However, the court may~~  
6 ~~not increase a sentence once it is imposed.~~

7 ~~If a motion filed pursuant to this subsection is timely~~  
8 ~~filed within 30 days after the sentence is imposed, the~~  
9 ~~proponent of the motion shall exercise due diligence in seeking~~  
10 ~~a determination on the motion and the court shall thereafter~~  
11 ~~decide such motion within a reasonable time.~~

12 ~~If a motion filed pursuant to this subsection is timely~~  
13 ~~filed within 30 days after the sentence is imposed, then for~~  
14 ~~purposes of perfecting an appeal, a final judgment shall not be~~  
15 ~~considered to have been entered until the motion to reduce a~~  
16 ~~sentence has been decided by order entered by the trial court.~~

17 ~~A motion filed pursuant to this subsection shall not be~~  
18 ~~considered to have been timely filed unless it is filed with~~  
19 ~~the circuit court clerk within 30 days after the sentence is~~  
20 ~~imposed together with a notice of motion, which notice of~~  
21 ~~motion shall set the motion on the court's calendar on a date~~  
22 ~~certain within a reasonable time after the date of filing.~~

23 ~~(d) Except where a term of natural life is imposed, every~~  
24 ~~sentence shall include as though written therein a term in~~  
25 ~~addition to the term of imprisonment. For those sentenced under~~  
26 ~~the law in effect prior to February 1, 1978, such term shall be~~

1 ~~identified as a parole term. For those sentenced on or after~~  
2 ~~February 1, 1978, such term shall be identified as a mandatory~~  
3 ~~supervised release term.~~ Subject to earlier termination under  
4 Section 3-3-8, the parole or mandatory supervised release term  
5 shall be as follows:

6 (1) for first degree murder or a Class X felony except  
7 for the offenses of predatory criminal sexual assault of a  
8 child, aggravated criminal sexual assault, and criminal  
9 sexual assault if committed on or after the effective date  
10 of this amendatory Act of the 94th General Assembly, 3  
11 years;

12 (2) for a Class 1 felony or a Class 2 felony except for  
13 the offense of criminal sexual assault if committed on or  
14 after the effective date of this amendatory Act of the 94th  
15 General Assembly, 2 years;

16 (3) for a Class 3 felony or a Class 4 felony, 1 year;

17 (4) for defendants who commit the offense of predatory  
18 criminal sexual assault of a child, aggravated criminal  
19 sexual assault, or criminal sexual assault, on or after the  
20 effective date of this amendatory Act of the 94th General  
21 Assembly, the term of mandatory supervised release shall  
22 range from a minimum of 3 years to a maximum of the natural  
23 life of the defendant;

24 (5) if the victim is under 18 years of age, for a  
25 second or subsequent offense of aggravated criminal sexual  
26 abuse or felony criminal sexual abuse, 4 years, at least

1 the first 2 years of which the defendant shall serve in an  
2 electronic home detention program under Article 8A of  
3 Chapter V of this Code.

4 (e) (Blank.) ~~A defendant who has a previous and unexpired~~  
5 ~~sentence of imprisonment imposed by another state or by any~~  
6 ~~district court of the United States and who, after sentence for~~  
7 ~~a crime in Illinois, must return to serve the unexpired prior~~  
8 ~~sentence may have his sentence by the Illinois court ordered to~~  
9 ~~be concurrent with the prior sentence in the other state. The~~  
10 ~~court may order that any time served on the unexpired portion~~  
11 ~~of the sentence in the other state, prior to his return to~~  
12 ~~Illinois, shall be credited on his Illinois sentence. The other~~  
13 ~~state shall be furnished with a copy of the order imposing~~  
14 ~~sentence which shall provide that, when the offender is~~  
15 ~~released from confinement of the other state, whether by parole~~  
16 ~~or by termination of sentence, the offender shall be~~  
17 ~~transferred by the Sheriff of the committing county to the~~  
18 ~~Illinois Department of Corrections. The court shall cause the~~  
19 ~~Department of Corrections to be notified of such sentence at~~  
20 ~~the time of commitment and to be provided with copies of all~~  
21 ~~records regarding the sentence.~~

22 (f) (Blank.) ~~A defendant who has a previous and unexpired~~  
23 ~~sentence of imprisonment imposed by an Illinois circuit court~~  
24 ~~for a crime in this State and who is subsequently sentenced to~~  
25 ~~a term of imprisonment by another state or by any district~~  
26 ~~court of the United States and who has served a term of~~

1 ~~imprisonment imposed by the other state or district court of~~  
2 ~~the United States, and must return to serve the unexpired prior~~  
3 ~~sentence imposed by the Illinois Circuit Court may apply to the~~  
4 ~~court which imposed sentence to have his sentence reduced.~~

5 ~~The circuit court may order that any time served on the~~  
6 ~~sentence imposed by the other state or district court of the~~  
7 ~~United States be credited on his Illinois sentence. Such~~  
8 ~~application for reduction of a sentence under this subsection~~  
9 ~~(f) shall be made within 30 days after the defendant has~~  
10 ~~completed the sentence imposed by the other state or district~~  
11 ~~court of the United States.~~

12 (Source: P.A. 94-165, eff. 7-11-05; 94-243, eff. 1-1-06;  
13 94-715, eff. 12-13-05.)

14 (730 ILCS 5/5-8-2) (from Ch. 38, par. 1005-8-2)

15 Sec. 5-8-2. Extended Term.

16 (a) A judge shall not sentence an offender to a term of  
17 imprisonment in excess of the maximum sentence authorized by  
18 Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter V  
19 for an offense or offenses within the class of the most serious  
20 offense of which the offender was convicted unless the factors  
21 in aggravation set forth in ~~paragraph (b) of~~ Section 5-5-3.2 or  
22 clause (a)(1)(b) of Section 5-8-1 were found to be present. If  
23 the pre-trial and trial proceedings were conducted in  
24 compliance with subsection (c-5) of Section 111-3 of the Code  
25 of Criminal Procedure of 1963, the judge may sentence an

1 offender to an extended term as provided in Article 4.5 of  
2 Chapter V (730 ILCS 5/Ch. V, Art. 4.5). ~~to the following:~~

3 ~~(1) for first degree murder, a term shall be not less~~  
4 ~~than 60 years and not more than 100 years;~~

5 ~~(2) for a Class X felony, a term shall be not less than~~  
6 ~~30 years and not more than 60 years;~~

7 ~~(3) for a Class 1 felony, a term shall be not less than~~  
8 ~~15 years and not more than 30 years;~~

9 ~~(4) for a Class 2 felony, a term shall be not less than~~  
10 ~~7 years and not more than 14 years;~~

11 ~~(5) for a Class 3 felony, a term shall not be less than~~  
12 ~~5 years and not more than 10 years;~~

13 ~~(6) for a Class 4 felony, a term shall be not less than~~  
14 ~~3 years and not more than 6 years.~~

15 (b) If the conviction was by plea, it shall appear on the  
16 record that the plea was entered with the defendant's knowledge  
17 that a sentence under this Section was a possibility. If it  
18 does not so appear on the record, the defendant shall not be  
19 subject to such a sentence unless he is first given an  
20 opportunity to withdraw his plea without prejudice.

21 (Source: P.A. 92-591, eff. 6-27-02; 93-900, eff. 1-1-05.)

22 (730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

23 Sec. 5-8-4. CONCURRENT AND CONSECUTIVE TERMS OF  
24 IMPRISONMENT ~~Concurrent and Consecutive Terms of Imprisonment.~~

25 (a) CONCURRENT TERMS; MULTIPLE OR ADDITIONAL SENTENCES.

1 When an Illinois court (i) imposes multiple sentences of  
2 imprisonment on a defendant at the same time or (ii) imposes a  
3 sentence of imprisonment on a defendant who is already subject  
4 to a sentence of imprisonment imposed by an Illinois court, a  
5 court of another state, or a federal court, then the sentences  
6 shall run concurrently unless otherwise determined by the  
7 Illinois court under this Section.

8 (b) CONCURRENT TERMS; MISDEMEANOR AND FELONY. A defendant  
9 serving a sentence for a misdemeanor who is convicted of a  
10 felony and sentenced to imprisonment shall be transferred to  
11 the Department of Corrections, and the misdemeanor sentence  
12 shall be merged in and run concurrently with the felony  
13 sentence.

14 (c) CONSECUTIVE TERMS; PERMISSIVE. The court may impose  
15 consecutive sentences in any of the following circumstances:

16 (1) If, having regard to the nature and circumstances  
17 of the offense and the history and character of the  
18 defendant, it is the opinion of the court that consecutive  
19 sentences are required to protect the public from further  
20 criminal conduct by the defendant, the basis for which the  
21 court shall set forth in the record.

22 (2) If one of the offenses for which a defendant was  
23 convicted was a violation of Section 32-5.2 (aggravated  
24 false personation of a peace officer) of the Criminal Code  
25 of 1961 (720 ILCS 5/32-5.2) and the offense was committed  
26 in attempting or committing a forcible felony.

1       (d) CONSECUTIVE TERMS; MANDATORY. The court shall impose  
2 consecutive sentences in each of the following circumstances:

3       (1) One of the offenses for which the defendant was  
4 convicted was first degree murder or a Class X or Class 1  
5 felony and the defendant inflicted severe bodily injury.

6       (2) The defendant was convicted of a violation of  
7 Section 12-13 (criminal sexual assault), 12-14 (aggravated  
8 criminal sexual assault), or 12-14.1 (predatory criminal  
9 sexual assault of a child) of the Criminal Code of 1961  
10 (720 ILCS 5/12-13, 5/12-14, or 5/12-14.1).

11       (3) The defendant was convicted of armed violence based  
12 upon the predicate offense of any of the following:  
13 solicitation of murder, solicitation of murder for hire,  
14 heinous battery, aggravated battery of a senior citizen,  
15 criminal sexual assault, a violation of subsection (g) of  
16 Section 5 of the Cannabis Control Act (720 ILCS 550/5),  
17 cannabis trafficking, a violation of subsection (a) of  
18 Section 401 of the Illinois Controlled Substances Act (720  
19 ILCS 570/401), controlled substance trafficking involving  
20 a Class X felony amount of controlled substance under  
21 Section 401 of the Illinois Controlled Substances Act (720  
22 ILCS 570/401), a violation of the Methamphetamine Control  
23 and Community Protection Act (720 ILCS 646/), calculated  
24 criminal drug conspiracy, or streetgang criminal drug  
25 conspiracy.

26       (4) The defendant was convicted of the offense of

1       leaving the scene of a motor vehicle accident involving  
2       death or personal injuries under Section 11-401 of the  
3       Illinois Vehicle Code (625 ILCS 5/11-401) and either: (A)  
4       aggravated driving under the influence of alcohol, other  
5       drug or drugs, or intoxicating compound or compounds, or  
6       any combination thereof under Section 11-501 of the  
7       Illinois Vehicle Code (625 ILCS 5/11-501), (B) reckless  
8       homicide under Section 9-3 of the Criminal Code of 1961  
9       (720 ILCS 5/9-3), or (C) both an offense described in item  
10      (A) and an offense described in item (B).

11       (5) The defendant was convicted of a violation of  
12      Section 9-3.1 (concealment of homicidal death) or Section  
13      12-20.5 (dismembering a human body) of the Criminal Code of  
14      1961 (720 ILCS 5/9-3.1 or 5/12-20.5).

15       (6) If the defendant was in the custody of the  
16      Department of Corrections at the time of the commission of  
17      the offense, the sentence shall be served consecutive to  
18      the sentence under which the defendant is held by the  
19      Department of Corrections. If, however, the defendant is  
20      sentenced to punishment by death, the sentence shall be  
21      executed at such time as the court may fix without regard  
22      to the sentence under which the defendant may be held by  
23      the Department.

24       (7) A sentence under Section 3-6-4 (730 ILCS 5/3-6-4)  
25      for escape or attempted escape shall be served consecutive  
26      to the terms under which the offender is held by the



1       Department of Corrections.

2       (8) If a person charged with a felony commits a  
3       separate felony while on pretrial release or in pretrial  
4       detention in a county jail facility or county detention  
5       facility, then the sentences imposed upon conviction of  
6       these felonies shall be served consecutively regardless of  
7       the order in which the judgments of conviction are entered.

8       (9) If a person admitted to bail following conviction  
9       of a felony commits a separate felony while free on bond or  
10      if a person detained in a county jail facility or county  
11      detention facility following conviction of a felony  
12      commits a separate felony while in detention, then any  
13      sentence following conviction of the separate felony shall  
14      be consecutive to that of the original sentence for which  
15      the defendant was on bond or detained.

16      (e) CONSECUTIVE TERMS; SUBSEQUENT NON-ILLINOIS TERM. If an  
17      Illinois court has imposed a sentence of imprisonment on a  
18      defendant and the defendant is subsequently sentenced to a term  
19      of imprisonment by a court of another state or a federal court,  
20      then the Illinois sentence shall run consecutively to the  
21      sentence imposed by the court of the other state or the federal  
22      court. That same Illinois court, however, may order that the  
23      Illinois sentence run concurrently with the sentence imposed by  
24      the court of the other state or the federal court, but only if  
25      the defendant applies to that same Illinois court within 30  
26      days after the sentence imposed by the court of the other state

1 or the federal court is finalized.

2 (f) CONSECUTIVE TERMS; AGGREGATE MAXIMUMS AND MINIMUMS.  
3 The aggregate maximum and aggregate minimum of consecutive  
4 sentences shall be determined as follows:

5 (1) For sentences imposed under law in effect prior to  
6 February 1, 1978, the aggregate maximum of consecutive  
7 sentences shall not exceed the maximum term authorized  
8 under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of  
9 Chapter V for the 2 most serious felonies involved. The  
10 aggregate minimum period of consecutive sentences shall  
11 not exceed the highest minimum term authorized under  
12 Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter  
13 V for the 2 most serious felonies involved. When sentenced  
14 only for misdemeanors, a defendant shall not be  
15 consecutively sentenced to more than the maximum for one  
16 Class A misdemeanor.

17 (2) For sentences imposed under the law in effect on or  
18 after February 1, 1978, the aggregate of consecutive  
19 sentences for offenses that were committed as part of a  
20 single course of conduct during which there was no  
21 substantial change in the nature of the criminal objective  
22 shall not exceed the sum of the maximum terms authorized  
23 under Section 5-8-2 (730 ILCS 5/5-8-2) for the 2 most  
24 serious felonies involved, but no such limitation shall  
25 apply for offenses that were not committed as part of a  
26 single course of conduct during which there was no

1        substantial change in the nature of the criminal objective.  
2        When sentenced only for misdemeanors, a defendant shall not  
3        be consecutively sentenced to more than the maximum for one  
4        Class A misdemeanor.

5        (g) CONSECUTIVE TERMS; MANNER SERVED. In determining the  
6        manner in which consecutive sentences of imprisonment, one or  
7        more of which is for a felony, will be served, the Department  
8        of Corrections shall treat the defendant as though he or she  
9        had been committed for a single term subject to each of the  
10       following:

11        (1) The maximum period of a term of imprisonment shall  
12        consist of the aggregate of the maximums of the imposed  
13        indeterminate terms, if any, plus the aggregate of the  
14        imposed determinate sentences for felonies, plus the  
15        aggregate of the imposed determinate sentences for  
16        misdemeanors, subject to subsection (f) of this Section.

17        (2) The parole or mandatory supervised release term  
18        shall be as provided in paragraph (e) of Section 5-4.5-50  
19        (730 ILCS 5/5-4.5-50) for the most serious of the offenses  
20        involved.

21        (3) The minimum period of imprisonment shall be the  
22        aggregate of the minimum and determinate periods of  
23        imprisonment imposed by the court, subject to subsection  
24        (f) of this Section.

25        (4) The defendant shall be awarded credit against the  
26        aggregate maximum term and the aggregate minimum term of

1       imprisonment for all time served in an institution since  
2       the commission of the offense or offenses and as a  
3       consequence thereof at the rate specified in Section 3-6-3  
4       (730 ILCS 5/3-6-3).

5       (h) CONSECUTIVE TERMS; TRIGGERING OFFENSE. If consecutive  
6       sentences are mandatory under this Section, the sentence for  
7       the triggering offense must be served prior to, and independent  
8       of, any sentences imposed for non-triggering offenses. In this  
9       Section, "triggering offense" means an offense that mandates  
10       imposition of a consecutive sentence under this Section.

11       ~~(a) When multiple sentences of imprisonment are imposed on~~  
12       ~~a defendant at the same time, or when a term of imprisonment is~~  
13       ~~imposed on a defendant who is already subject to sentence in~~  
14       ~~this State or in another state, or for a sentence imposed by~~  
15       ~~any district court of the United States, the sentences shall~~  
16       ~~run concurrently or consecutively as determined by the court.~~  
17       ~~When one of the offenses for which a defendant was convicted~~  
18       ~~was a violation of Section 32-5.2 of the Criminal Code of 1961~~  
19       ~~and the offense was committed in attempting or committing a~~  
20       ~~forcible felony, the court may impose consecutive sentences.~~  
21       ~~When a term of imprisonment is imposed on a defendant by an~~  
22       ~~Illinois circuit court and the defendant is subsequently~~  
23       ~~sentenced to a term of imprisonment by another state or by a~~  
24       ~~district court of the United States, the Illinois circuit court~~  
25       ~~which imposed the sentence may order that the Illinois sentence~~  
26       ~~be made concurrent with the sentence imposed by the other state~~

1 ~~or district court of the United States. The defendant must~~  
2 ~~apply to the circuit court within 30 days after the defendant's~~  
3 ~~sentence imposed by the other state or district of the United~~  
4 ~~States is finalized. The court shall impose consecutive~~  
5 ~~sentences if:~~

6 ~~(i) one of the offenses for which defendant was~~  
7 ~~convicted was first degree murder or a Class X or Class 1~~  
8 ~~felony and the defendant inflicted severe bodily injury, or~~

9 ~~(ii) the defendant was convicted of a violation of~~  
10 ~~Section 12-13, 12-14, or 12-14.1 of the Criminal Code of~~  
11 ~~1961, or~~

12 ~~(iii) the defendant was convicted of armed violence~~  
13 ~~based upon the predicate offense of solicitation of murder,~~  
14 ~~solicitation of murder for hire, heinous battery,~~  
15 ~~aggravated battery of a senior citizen, criminal sexual~~  
16 ~~assault, a violation of subsection (g) of Section 5 of the~~  
17 ~~Cannabis Control Act, cannabis trafficking, a violation of~~  
18 ~~subsection (a) of Section 401 of the Illinois Controlled~~  
19 ~~Substances Act, controlled substance trafficking involving~~  
20 ~~a Class X felony amount of controlled substance under~~  
21 ~~Section 401 of the Illinois Controlled Substances Act, a~~  
22 ~~violation of the Methamphetamine Control and Community~~  
23 ~~Protection Act, calculated criminal drug conspiracy, or~~  
24 ~~streetgang criminal drug conspiracy, or~~

25 ~~(iv) the defendant was convicted of the offense of~~  
26 ~~leaving the scene of a motor vehicle accident involving~~

~~death or personal injuries under Section 11-401 and either:~~  
~~(A) aggravated driving under the influence of alcohol,~~  
~~other drug or drugs, or intoxicating compound or compounds,~~  
~~or any combination thereof under Section 11-501 of the~~  
~~Illinois Vehicle Code, or (B) reckless homicide under~~  
~~Section 9-3 of the Criminal Code of 1961, or both an~~  
~~offense described in subdivision (A) and an offense~~  
~~described in subdivision (B), or~~

~~(v) the defendant was convicted of a violation of~~  
~~Section 9-3.1 (concealment of homicidal death) or Section~~  
~~12-20.5 (dismembering a human body) of the Criminal Code of~~  
~~1961,~~

~~in which event the court shall enter sentences to run~~  
~~consecutively. Sentences shall run concurrently unless~~  
~~otherwise specified by the court.~~

~~(b) Except in cases where consecutive sentences are~~  
~~mandated, the court shall impose concurrent sentences unless,~~  
~~having regard to the nature and circumstances of the offense~~  
~~and the history and character of the defendant, it is of the~~  
~~opinion that consecutive sentences are required to protect the~~  
~~public from further criminal conduct by the defendant, the~~  
~~basis for which the court shall set forth in the record.~~

~~(c) (1) For sentences imposed under law in effect prior to~~  
~~February 1, 1978 the aggregate maximum of consecutive~~  
~~sentences shall not exceed the maximum term authorized~~  
~~under Section 5-8-1 for the 2 most serious felonies~~

1 ~~involved. The aggregate minimum period of consecutive~~  
2 ~~sentences shall not exceed the highest minimum term~~  
3 ~~authorized under Section 5-8-1 for the 2 most serious~~  
4 ~~felonies involved. When sentenced only for misdemeanors, a~~  
5 ~~defendant shall not be consecutively sentenced to more than~~  
6 ~~the maximum for one Class A misdemeanor.~~

7 ~~(2) For sentences imposed under the law in effect on or~~  
8 ~~after February 1, 1978, the aggregate of consecutive~~  
9 ~~sentences for offenses that were committed as part of a~~  
10 ~~single course of conduct during which there was no~~  
11 ~~substantial change in the nature of the criminal objective~~  
12 ~~shall not exceed the sum of the maximum terms authorized~~  
13 ~~under Section 5-8-2 for the 2 most serious felonies~~  
14 ~~involved, but no such limitation shall apply for offenses~~  
15 ~~that were not committed as part of a single course of~~  
16 ~~conduct during which there was no substantial change in the~~  
17 ~~nature of the criminal objective. When sentenced only for~~  
18 ~~misdemeanors, a defendant shall not be consecutively~~  
19 ~~sentenced to more than the maximum for one Class A~~  
20 ~~misdemeanor.~~

21 ~~(d) An offender serving a sentence for a misdemeanor who is~~  
22 ~~convicted of a felony and sentenced to imprisonment shall be~~  
23 ~~transferred to the Department of Corrections, and the~~  
24 ~~misdemeanor sentence shall be merged in and run concurrently~~  
25 ~~with the felony sentence.~~

26 ~~(e) In determining the manner in which consecutive~~

1 ~~sentences of imprisonment, one or more of which is for a~~  
2 ~~felony, will be served, the Department of Corrections shall~~  
3 ~~treat the offender as though he had been committed for a single~~  
4 ~~term with the following incidents:~~

5 ~~(1) the maximum period of a term of imprisonment shall~~  
6 ~~consist of the aggregate of the maximums of the imposed~~  
7 ~~indeterminate terms, if any, plus the aggregate of the~~  
8 ~~imposed determinate sentences for felonies plus the~~  
9 ~~aggregate of the imposed determinate sentences for~~  
10 ~~misdemeanors subject to paragraph (c) of this Section;~~

11 ~~(2) the parole or mandatory supervised release term~~  
12 ~~shall be as provided in paragraph (c) of Section 5-8-1 of~~  
13 ~~this Code for the most serious of the offenses involved;~~

14 ~~(3) the minimum period of imprisonment shall be the~~  
15 ~~aggregate of the minimum and determinate periods of~~  
16 ~~imprisonment imposed by the court, subject to paragraph (c)~~  
17 ~~of this Section; and~~

18 ~~(4) the offender shall be awarded credit against the~~  
19 ~~aggregate maximum term and the aggregate minimum term of~~  
20 ~~imprisonment for all time served in an institution since~~  
21 ~~the commission of the offense or offenses and as a~~  
22 ~~consequence thereof at the rate specified in Section 3-6-3~~  
23 ~~of this Code.~~

24 ~~(f) A sentence of an offender committed to the Department~~  
25 ~~of Corrections at the time of the commission of the offense~~  
26 ~~shall be served consecutive to the sentence under which he is~~



1 ~~held by the Department of Corrections. However, in case such~~  
2 ~~offender shall be sentenced to punishment by death, the~~  
3 ~~sentence shall be executed at such time as the court may fix~~  
4 ~~without regard to the sentence under which such offender may be~~  
5 ~~held by the Department.~~

6 ~~(g) A sentence under Section 3-6-4 for escape or attempted~~  
7 ~~escape shall be served consecutive to the terms under which the~~  
8 ~~offender is held by the Department of Corrections.~~

9 ~~(h) If a person charged with a felony commits a separate~~  
10 ~~felony while on pre-trial release or in pretrial detention in a~~  
11 ~~county jail facility or county detention facility, the~~  
12 ~~sentences imposed upon conviction of these felonies shall be~~  
13 ~~served consecutively regardless of the order in which the~~  
14 ~~judgments of conviction are entered.~~

15 ~~(i) If a person admitted to bail following conviction of a~~  
16 ~~felony commits a separate felony while free on bond or if a~~  
17 ~~person detained in a county jail facility or county detention~~  
18 ~~facility following conviction of a felony commits a separate~~  
19 ~~felony while in detention, any sentence following conviction of~~  
20 ~~the separate felony shall be consecutive to that of the~~  
21 ~~original sentence for which the defendant was on bond or~~  
22 ~~detained.~~

23 (Source: P.A. 93-160, eff. 7-10-03; 93-768, eff. 7-20-04;  
24 94-556, eff. 9-11-05; 94-985, eff. 1-1-07.)

1       Sec. 5-9-1. Authorized fines.

2       (a) An offender may be sentenced to pay a fine as provided  
3 in Article 4.5 of Chapter V. ~~which shall not exceed for each~~  
4 ~~offense.~~

5           ~~(1) for a felony, \$25,000 or the amount specified in~~  
6 ~~the offense, whichever is greater, or where the offender is~~  
7 ~~a corporation, \$50,000 or the amount specified in the~~  
8 ~~offense, whichever is greater.~~

9           ~~(2) for a Class A misdemeanor, \$2,500 or the amount~~  
10 ~~specified in the offense, whichever is greater.~~

11           ~~(3) for a Class B or Class C misdemeanor, \$1,500.~~

12           ~~(4) for a petty offense, \$1,000 or the amount specified~~  
13 ~~in the offense, whichever is less.~~

14           ~~(5) for a business offense, the amount specified in the~~  
15 ~~statute defining that offense.~~

16       (b) (Blank.) ~~A fine may be imposed in addition to a~~  
17 ~~sentence of conditional discharge, probation, periodic~~  
18 ~~imprisonment, or imprisonment.~~

19       (c) There shall be added to every fine imposed in  
20 sentencing for a criminal or traffic offense, except an offense  
21 relating to parking or registration, or offense by a  
22 pedestrian, an additional penalty of \$10 for each \$40, or  
23 fraction thereof, of fine imposed. The additional penalty of  
24 \$10 for each \$40, or fraction thereof, of fine imposed, if not  
25 otherwise assessed, shall also be added to every fine imposed  
26 upon a plea of guilty, stipulation of facts or findings of

1 guilty, resulting in a judgment of conviction, or order of  
2 supervision in criminal, traffic, local ordinance, county  
3 ordinance, and conservation cases (except parking,  
4 registration, or pedestrian violations), or upon a sentence of  
5 probation without entry of judgment under Section 10 of the  
6 Cannabis Control Act, Section 410 of the Illinois Controlled  
7 Substances Act, or Section 70 of the Methamphetamine Control  
8 and Community Protection Act.

9       Such additional amounts shall be assessed by the court  
10 imposing the fine and shall be collected by the Circuit Clerk  
11 in addition to the fine and costs in the case. Each such  
12 additional penalty shall be remitted by the Circuit Clerk  
13 within one month after receipt to the State Treasurer. The  
14 State Treasurer shall deposit \$1 for each \$40, or fraction  
15 thereof, of fine imposed into the LEADS Maintenance Fund. The  
16 State Treasurer shall deposit \$1 for each \$40, or fraction  
17 thereof, of fine imposed into the Law Enforcement Camera Grant  
18 Fund. The remaining surcharge amount shall be deposited into  
19 the Traffic and Criminal Conviction Surcharge Fund, unless the  
20 fine, costs or additional amounts are subject to disbursement  
21 by the circuit clerk under Section 27.5 of the Clerks of Courts  
22 Act. Such additional penalty shall not be considered a part of  
23 the fine for purposes of any reduction in the fine for time  
24 served either before or after sentencing. Not later than March  
25 1 of each year the Circuit Clerk shall submit a report of the  
26 amount of funds remitted to the State Treasurer under this

1 subsection (c) during the preceding calendar year. Except as  
2 otherwise provided by Supreme Court Rules, if a court in  
3 imposing a fine against an offender levies a gross amount for  
4 fine, costs, fees and penalties, the amount of the additional  
5 penalty provided for herein shall be computed on the amount  
6 remaining after deducting from the gross amount levied all fees  
7 of the Circuit Clerk, the State's Attorney and the Sheriff.  
8 After deducting from the gross amount levied the fees and  
9 additional penalty provided for herein, less any other  
10 additional penalties provided by law, the clerk shall remit the  
11 net balance remaining to the entity authorized by law to  
12 receive the fine imposed in the case. For purposes of this  
13 Section "fees of the Circuit Clerk" shall include, if  
14 applicable, the fee provided for under Section 27.3a of the  
15 Clerks of Courts Act and the fee, if applicable, payable to the  
16 county in which the violation occurred pursuant to Section  
17 5-1101 of the Counties Code.

18 (c-5) In addition to the fines imposed by subsection (c),  
19 any person convicted or receiving an order of supervision for  
20 driving under the influence of alcohol or drugs shall pay an  
21 additional \$100 fee to the clerk. This additional fee, less 2  
22 1/2% that shall be used to defray administrative costs incurred  
23 by the clerk, shall be remitted by the clerk to the Treasurer  
24 within 60 days after receipt for deposit into the Trauma Center  
25 Fund. This additional fee of \$100 shall not be considered a  
26 part of the fine for purposes of any reduction in the fine for

1 time served either before or after sentencing. Not later than  
2 March 1 of each year the Circuit Clerk shall submit a report of  
3 the amount of funds remitted to the State Treasurer under this  
4 subsection (c-5) during the preceding calendar year.

5 The Circuit Clerk may accept payment of fines and costs by  
6 credit card from an offender who has been convicted of a  
7 traffic offense, petty offense or misdemeanor and may charge  
8 the service fee permitted where fines and costs are paid by  
9 credit card provided for in Section 27.3b of the Clerks of  
10 Courts Act.

11 (c-7) In addition to the fines imposed by subsection (c),  
12 any person convicted or receiving an order of supervision for  
13 driving under the influence of alcohol or drugs shall pay an  
14 additional \$5 fee to the clerk. This additional fee, less 2  
15 1/2% that shall be used to defray administrative costs incurred  
16 by the clerk, shall be remitted by the clerk to the Treasurer  
17 within 60 days after receipt for deposit into the Spinal Cord  
18 Injury Paralysis Cure Research Trust Fund. This additional fee  
19 of \$5 shall not be considered a part of the fine for purposes  
20 of any reduction in the fine for time served either before or  
21 after sentencing. Not later than March 1 of each year the  
22 Circuit Clerk shall submit a report of the amount of funds  
23 remitted to the State Treasurer under this subsection (c-7)  
24 during the preceding calendar year.

25 (c-9) (Blank).

26 (d) In determining the amount and method of payment of a

1 fine, except for those fines established for violations of  
2 Chapter 15 of the Illinois Vehicle Code, the court shall  
3 consider:

4 (1) the financial resources and future ability of the  
5 offender to pay the fine; and

6 (2) whether the fine will prevent the offender from  
7 making court ordered restitution or reparation to the  
8 victim of the offense; and

9 (3) in a case where the accused is a dissolved  
10 corporation and the court has appointed counsel to  
11 represent the corporation, the costs incurred either by the  
12 county or the State for such representation.

13 (e) The court may order the fine to be paid forthwith or  
14 within a specified period of time or in installments.

15 (f) All fines, costs and additional amounts imposed under  
16 this Section for any violation of Chapters 3, 4, 6, and 11 of  
17 the Illinois Vehicle Code, or a similar provision of a local  
18 ordinance, and any violation of the Child Passenger Protection  
19 Act, or a similar provision of a local ordinance, shall be  
20 collected and disbursed by the circuit clerk as provided under  
21 Section 27.5 of the Clerks of Courts Act.

22 (Source: P.A. 93-32, eff. 6-20-03; 94-556, eff. 9-11-05;  
23 94-652, eff. 8-22-05; 94-987, eff. 6-30-06.)

24 (720 ILCS 5/Art. 33B rep.)

25 Section 93. The Criminal Code of 1961 is amended by

1       repealing all of Article 33B.

2               (730 ILCS 5/5-5-1 rep.)

3               (730 ILCS 5/5-5-2 rep.)

4               (730 ILCS 5/5-8-3 rep.)

5               (730 ILCS 5/5-8-7 rep.)

6               Section 95. The Unified Code of Corrections is amended by  
7       repealing Sections 5-5-1, 5-5-2, 5-8-3, and 5-8-7.

8               Section 99. Effective date. This Act takes effect July 1,  
9       2008.

1                   DERIVATION OF NEW 730 ILCS 5/CH. V, ART. 4.5

2   NEW SECTION                   FROM

3   730 ILCS 5/5-4.5-5       NEW

4   730 ILCS 5/5-4.5-10      730 ILCS 5/5-5-1

5   730 ILCS 5/5-4.5-15      730 ILCS 5/5-5-3, 5/5-8-1

6   730 ILCS 5/5-4.5-20      730 ILCS 5/5-5-3, 5/5-7-1,

7                              5/5-8-1, 5/5-8-1.1, 5-8-1.2,

8                              5/5-8-2, 5/5-8-7, 5/5-8A-3;

9                              730 ILCS 166/20

10   730 ILCS 5/5-4.5-25      730 ILCS 5/5-5-3, 5/5-7-1,

11                              5/5-8-1, 5/5-8-1.1, 5-8-1.2,

12                              5/5-8-2, 5/5-8-7, 5/5-8A-3

13   730 ILCS 5/5-4.5-30      730 ILCS 5/5-5-3, 5/5-6-2, 5/5-7-1,

14                              5/5-8-1, 5/5-8-2, 5/5-8A-3

15   730 ILCS 5/5-4.5-35      730 ILCS 5/5-6-2, 5-7-1,

16                              5/5-8-1, 5/5-8-2

17   730 ILCS 5/5-4.5-40      730 ILCS 5/5-6-2, 5/5-7-1,

18                              5/5-8-1, 5/5-8-2

19   730 ILCS 5/5-4.5-45      730 ILCS 5/5-6-2, 5/5-7-1,

20                              5/5-8-1, 5/5-8-2

21   730 ILCS 5/5-4.5-50      730 ILCS 5/5-5-3, 5/5-6-1,

22                              5/5-8-1, 5/5-9-1

23   730 ILCS 5/5-4.5-55      730 ILCS 5/5-6-2, 5/5-7-1,

24                              5/5-8-3, 5/5-9-1

25   730 ILCS 5/5-4.5-60      730 ILCS 5/5-6-2, 5/5-7-1,

26                              5/5-8-3, 5/5-9-1



1	730 ILCS 5/5-4.5-65	730 ILCS 5/5-6-2, 5/5-7-1,
2		5/5-8-3, 5/5-9-1
3	730 ILCS 5/5-4.5-70	730 ILCS 5/5-5-3, 5/5-6-1,
4		5/5-6-3.1
5	730 ILCS 5/5-4.5-75	730 ILCS 5/5-5-3, 5/5-6-1,
6		5/5-6-2, 5/5-6-3.1, 5/5-9-1
7	730 ILCS 5/5-4.5-80	730 ILCS 5/5-1-2, 5/5-5-3,
8		5/5-6-1, 5/5-6-2, 5/5-6-3.1,
9		5/5-9-1
10	730 ILCS 5/5-4.5-85	730 ILCS 5/5-5-2
11	730 ILCS 5/5-4.5-90	730 ILCS 5/5-5-3
12	730 ILCS 5/5-4.5-95	720 ILCS 5/Art. 33B;
13		730 ILCS 5/5-5-3, 5/5-8-1
14	730 ILCS 5/5-4.5-100	730 ILCS 5/5-8-7
15	730 ILCS 5/5-4.5-990	NEW

## DISPOSITION TO NEW 730 ILCS 5/CH. V, ART. 4.5

## FROM

## NEW SECTIONS

720 ILCS 5/Art. 33B 730 ILCS 5/5-4.5-95

730 ILCS 5/5-1-2 730 ILCS 5/5-4.5-80

730 ILCS 5/5-5-1 730 ILCS 5/5-4.5-10

730 ILCS 5/5-5-2 730 ILCS 5/5-4.5-85

730 ILCS 5/5-5-3 730 ILCS 5/5-4.5-15, 5/5-4.5-20,  
5/5-4.5-25, 5/5-4.5-30, 5/5-4.5-50,  
5/5-4.5-70, 5/5-4.5-75, 5/5-4.5-80,  
5/5-4.5-90, 5/5-4.5-95

730 ILCS 5/5-6-1 730 ILCS 5/5-4.5-50, 5/5-4.5-70,  
5/5-4.5-75, 5/5-4.5-80

730 ILCS 5/5-6-2 730 ILCS 5/5-4.5-30, 5/5-4.5-35,  
5/5-4.5-40, 5/5-4.5-45, 5/5-4.5-55,  
5/5-4.5-60, 5/5-4.5-65, 5/5-4.5-75,  
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730 ILCS 5/5-6-3.1 730 ILCS 5/5-4.5-70, 5/5-4.5-75,  
5/5-4.5-80

730 ILCS 5/5-7-1 730 ILCS 5/5-4.5-20, 5/5-4.5-25,  
5/5-4.5-30, 5/5-4.5-35, 5/5-4.5-40,  
5/5-4.5-45, 5/5-4.5-55, 5/5-4.5-60,  
5/5-4.5-65

730 ILCS 5/5-8-1 730 ILCS 5/5-4.5-15, 5/5-4.5-20,  
5/5-4.5-25, 5/5-4.5-30, 5/5-4.5-35,  
5/5-4.5-40, 5/5-4.5-45, 5/5-4.5-50,

1		5/5-4.5-95
2	730 ILCS 5/5-8-1.1	730 ILCS 5/5-4.5-20, 5/5-4.5-25
3	730 ILCS 5/5-8-1.2	730 ILCS 5/5-4.5-20, 5/5-4.5-25
4	730 ILCS 5/5-8-2	730 ILCS 5/5-4.5-20, 5/5-4.5-25,
5		5/5-4.5-30, 5/5-4.5-35, 5/5-4.5-40,
6		5/5-4.5-45
7	730 ILCS 5/5-8-3	730 ILCS 5/5-4.5-55, 5/5-4.5-60,
8		5/5-4.5-65
9	730 ILCS 5/5-8-7	730 ILCS 5/5-4.5-20, 5/5-4.5-25,
10		5/5-4.5-100
11	730 ILCS 5/5-8A-3	730 ILCS 5/5-4.5-20, 5/5-4.5-25,
12		5/5-4.5-30
13	730 ILCS 5/5-9-1	730 ILCS 5/5-4.5-50, 5/5-4.5-55,
14		5/5-4.5-60, 5/5-4.5-65, 5/5-4.5-75,
15		5/5-4.5-80
16	730 ILCS 166/20	730 ILCS 5/5-4.5-20
17	NEW	730 ILCS 5/5-4.5-85, 5/5-4.5-990".